

Legislative Research Digest

Arizona House of Representatives
House Legislative Research Staff
(602) 926 3848





Arizona House of Representatives
Phoenix, Arizona 85007

Preface

May 20, 2022

Both the First and Second Regular Sessions of the Fifty-fifth Legislature have presented new opportunities for Legislative Research Staff to develop professionally and unite as a stronger-than-ever team.

In response to the ongoing public health crisis and under the direction of the Speaker of the Arizona House of Representatives, Russell W. "Rusty" Bowers, Legislative Research Staff (Team) adjusted to the unprecedented events facing the State of Arizona. Our Team became experts in Zoom to facilitate public participation in committee hearings, revised training and professional development modules and hired new staff—all the while facing the largest number of legislative measures introduced in a decade. As the COVID pandemic continued into the interim, our Team created the **Legislative Research Digest** to ensure elected officials have access at any hour to nonpartisan, objective information on a wide array of topics. As we enter a new phase of the COVID era, our Team remains dedicated to improving and continually updating the Legislative Research Digest to serve returning and incoming members of the Arizona House of Representatives.

The Legislative Research Digest includes various issues, data, materials and information the Arizona Legislature addresses annually or on a regular basis. Each analyst is responsible for researching the topics contained in the Legislative Research Digest and compiling information that is current and accurate. Our Team researches complicated state statutes, Arizona Administrative Code and communicates with other subject-matter experts and state agencies to ensure the most pertinent information is included. The Legislative Research Digest showcases our Team's dedication to providing the information requested during the development of public policy.

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Arizona Criminal Justice Commission Overview

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The [Arizona Criminal Justice Commission](#) (ACJC) was established in 1982, defined by A.R.S. § 41-2401 through § 41-2420, to carry out various coordinating, monitoring and reporting functions regarding the administration and management of criminal justice programs in Arizona. According to [ACJC information](#), Arizona's criminal justice system includes 480 state and local criminal justice agencies, including law enforcement, prosecution, courts and corrections.

ACJC Responsibilities

The mission of ACJC is to sustain and enhance the coordination, cohesiveness, productivity and effectiveness of the criminal justice system in Arizona.

The primary statutory responsibilities under ACJC's purview to help administer and manage criminal justice programs in Arizona include:

- 1) Researching criminal justice issues and producing statutorily required reports; and
- 2) Awarding and monitoring state and federal grants for purposes such as reducing violent crime, providing victim services and improving criminal history records ([A.R.S. § 41-2405](#)).

Conducting Research

The Statistical Analysis Center (SAC) was established within the ACJC to prepare research, analyses, studies, reports and publications of crime and criminal justice statistics ([A.R.S. § 41-2405](#)). ACJC specifically uses SAC to produce statutorily required reports regarding criminal justice system activity in Arizona. These reports may be sent to the Governor, Secretary of State, Legislature or other statutorily specified recipients.

The statutorily required reports include:

- 1) **Arizona Crime Trends: A System Review** is completed biennially and provides a review of Arizona's criminal justice system. This report provides state-level information on the crime rate by type of offense, the number of court case filings and the number of individuals incarcerated or on probation.
- 2) **Reporting of Sexual Assault in Arizona** is completed annually and is required to include information on the total number of police reports, charges, convictions and sentences regarding sexual assaults.
- 3) **Fill the Gap** is completed annually and provides information on the amount of state aid awarded to county attorneys and those involved in indigent defense, such as county public defenders.
- 4) **Arizona Youth Survey** is completed when the Legislature appropriates monies, and the survey is designed to measure both attitudes and frequency of substance abuse by youth in public schools.
- 5) **Arizona Gang Threat Assessment** is completed annually and is designed to measure the prevalence of street gang activity in Arizona.

- 6) **Recidivism Report**, beginning January 2019, is an annually completed report comparing the recidivism rate for a person who serves a term of mandatory incarceration in a county jail or prison.

ACJC Membership and Staffing

ACJC comprises 19 members representing various elements of the criminal justice system in Arizona. Fourteen of the 19 ACJC members are local or county officials and are appointed by the Governor for two terms. No more than 7 of the appointed members may be from the same political party. The remaining 5 members are state agency officials ([A.R.S. § 41-2404](#)). Members of ACJC are not eligible to receive compensation but are eligible for reimbursement of expenses ([A.R.S. § 38-621](#)).

Local or county officials appointed by the Governor for 2-year terms

- One police chief, one county attorney and one county sheriff from each of the following:
 - County with a population of 1.5 million or greater
 - County with a population between 800,000 and 1.5 million
 - County with a population less than 800,000
- One law enforcement leader
- One former judge
- One mayor
- One member of a county board of supervisors
- One chief probation officer

State agency officials

- Arizona Attorney General
- Director of Arizona Department of Public Safety
- Director of Arizona Department of Corrections
- Administrative Director of the Courts
- Chairman of the Arizona Board of Clemency

Arizona Health Care Cost Containment System Overview

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[Laws 1981, Fourth Special Session, Chapter 1](#), effective 1982, established the Arizona Health Care Cost Containment System (AHCCCS) to administer Arizona's Medicaid program. It is a federal health care program jointly funded by the federal and state government that oversees contracted health plans for the delivery of health care services to individuals and families who qualify for Medicaid and other medical assistance programs. AHCCCS statutory authority is outlined in Arizona Revised Statutes [Title 36, Chapter 29 \(AHCCCS Administration\)](#) and [Chapter 34 \(Behavioral Health Services\)](#).

AHCCCS operates under an integrated managed care model, through a Research and Demonstration 1115 Waiver. The 1115 Waiver refers to [Section 1115](#) of the Social Security Act (SSA). The 1115 Waiver grants the U.S. Secretary of Health and Human Services the authority to approve experimental, pilot or demonstration projects that promote the objectives of the Medicaid program. States must comply with Title XIX (Medicaid) and Title XXI (Children's Health Insurance Program) of the SSA. AHCCCS has been exempt from specific provisions of the SSA, pursuant to an 1115 Research and Demonstration Waiver.

The Director of AHCCCS is appointed by the Governor and confirmed by the Senate [\(A.R.S. § 36-2902\)](#). According to the [FY 2022 Appropriations Report](#) produced by the Arizona Joint Legislative Budget Committee (JLBC), the budget includes \$18.5 billion and 2,348.3 full-time equivalent (FTE) positions. Of the total budget, \$1.9 billion is appropriated from the state General Fund. AHCCCS organizes its staff among five larger organizational units: Office of the Director, Office of the Inspector General, Business Operations, HealthPlan Operations and Office of the Chief Medical Officer (CMO). AHCCCS's organizational chart can be found [here](#).

AHCCCS Eligibility

[A.R.S. § 36-2901](#) defines an *eligible person* as any of the following:

- 1) Defined as *mandatorily* or *optionally eligible* pursuant to title XIX of the Social Security Act as authorized by the state plan;
- 2) Defined in title XIX of the Social Security Act as an *eligible pregnant woman* with a family income that does not exceed 150% of the federal poverty guidelines (FPL);
- 3) Children 1-18 whose family income is does not exceed 133% FPL;
- 4) Individuals under 26 years old and who was in custody of the Department of Child Safety when the person turned 18 years old;
- 5) Defined as *eligible* under the Proposition 204 program;
- 6) Defined as *eligible* under the Medical Expense Deduction program;
- 7) A person whose household's modified adjusted gross income is more than 100% but equal to or less than 133% FPL;
- 8) A full-time state officer or employe or of a city, town or school district of this state or other person who is eligible for hospitalization and medical care under certain Arizona Department of Administration health and accident coverage provisions;
- 9) A full-time officer or employee of any county in Arizona or other persons authorized by the county to participate in county medical care and hospitalization programs if the county in which such officer or employee is employed has authorized participation in AHCCCS by resolution of the county board of supervisors;
- 10) An employee of a business within this state;
- 11) A dependent of an officer or employee who is participating in AHCCCS;
- 12) An individual not enrolled in the Arizona Long Term Care System;

13)Defined as *eligible* under the Social Security Act as an individual with disabilities who meets certain income requirements.

AHCCCS Services

Contracted health plans provide services and receive a fixed monthly amount or capitation payment for each enrolled member ([A.R.S. § 36-2904](#)). AHCCCS members receive a full range of medical services under the following categories:

Acute Care

Provides a wide range of healthcare services, such as inpatient and outpatient hospital services, physician services, immunizations, laboratory and x-ray services to children, pregnant women and other low-income adults. Attached is a visual representation of the [AHCCCS Care Delivery System](#).

AHCCCS's covered health and medical services can be found in ([A.R.S. § 36-2907](#)). These services include:

- 1) Inpatient hospital services;
- 2) Outpatient health services;
- 3) Lab and x-ray services ordered by a physician or primary care practitioner;
- 4) Medications that are ordered on prescription by a physician or a dentist;
- 5) Medical supplies, durable medical equipment, insulin pumps and prosthetic devices ordered by a physician or a primary care practitioner;
- 6) Treatment of medical conditions of the eye for persons who are at least 21 years of age, excluding eye examinations for prescriptive lenses;
- 7) Early and periodic screening diagnosis and treatment (EPSDT) services for Medicaid eligible children under age 21;
- 8) Family planning services;
- 9) Podiatry services that are performed by a podiatrist and ordered by a primary care physician or primary care practitioner;
- 10) Nonexperimental transplants approval for Title XIX reimbursement;
- 11) Emergency dental care and extractions for individuals at least 21 years of age (up to \$1,000 per contract year);
- 12) Ambulance and non-ambulance transportation;
- 13) Hospice care; and
- 14) Orthotics.

Arizona Long Term Care System (ALTCS)

The ALTCS system includes the management and delivery of hospitalization, medical care, institutional services and home and community-based services to individuals who are elderly, physically disabled or developmentally disabled. Individuals must meet certain financial eligibility criteria as outlined in (A.R.S. §§ [36-2933](#) through [36-2934.02](#)). AHCCCS maintains the full operational responsibility for the system and those responsibilities are outlined in ([A.R.S. § 36-2932](#)).

[A.R.S. § 36-2939](#) outlines the following ALTCS services, which includes:

- 1) Nursing facility services;
- 2) Behavioral health services;
- 3) Hospice services;
- 4) Case management services;
- 5) Health and medical services;
- 6) Dental services (up to \$1,000 per contract year);
- 7) Intermediate care facility services; and
- 8) Home and community-based services.

Children's Health Insurance Program (CHIP)

The CHIP program or KidsCare, provides health coverage to children (under age 19) in families with incomes between 133% and 200% FPL. According to JLBC, families of KidsCare members are charged a monthly premium of \$10 to \$70, depending on level of family income and number of children enrolled in the program. CHIP is funded by the federal CHIP Block Grant and state matching dollars ([FY 2023 Baseline Book](#)).

Regional Behavioral Health Authority (RHBA's)

RHBA's are organizations under contract with AHCCCS to coordinate the delivery of physical and behavioral health services in a geographic service area (GSA) in Arizona for eligible persons ([A.R.S. § 36-3401](#)). RHBA providers include Arizona Complete Health, Mercy Care and Health Choice Arizona. Current enrollment in each GSA for covered members determined to have a serious mental illness includes:

- 1) Health Choice Arizona (North GSA) - 6,319;
- 2) Mercy Care (Central GSA) – 27,308; and
- 3) Arizona Complete Health (South GSA) – 14,484.

Comprehensive Medical and Dental Program (CMDP)

CMDP was formed in 1970 ([Laws 1970, Chapter 205](#)). CMDP is an AHCCCS managed acute health care program within the Department of Child Safety (DCS) that serves children and youth in foster care.

[Laws 2019, Chapter 305](#) transferred coverage of behavioral health services for foster children from the RBHA's to DCS pending the appropriation and availability of funding from the state and federal government for the CMPD. DCS must notify the Director of Legislative Council in writing if the condition was met or not met on or before February 1, 2024.

CMDP was replaced by the Mercy Care Department of Child Safety Comprehensive Health Plan, or Mercy Care DCS CHP, on April 1, 2021. The plan allows for children in foster care to get medical, behavioral health and dental services from one healthcare plan. Additional information about the plan can be found [here](#).

Covered services in foster care include:

- 1) Primary and specialty physician care services;
- 2) Prescription drugs and medical supplies;
- 3) Medical checkups;
- 4) Behavioral health services;
- 5) Hospital care; and
- 6) Vision and dental services.

Strategic Planning

AHCCCS [FY 2018-2023 Strategic Plan](#) contains an overview of their four strategic goals and comprehensive multi-year strategies to achieve them. These goals are to:

- 1) Pursue and implement long term strategies that bend the cost curve while improving member health outcomes;
- 2) Pursue continuous quality improvement;
- 3) Reduce fragmentation driving towards an integrated sustainable healthcare system; and
- 4) Maintain core organizational capacity, infrastructure and workforce planning that effectively serves AHCCCS operations.

AHCCCS Committees & Workgroups

AHCCCS has several committees and workgroups that address different policy areas, including:

[**Arizona Advisory Council on Indian Health Care \(AACIHC\)**](#) - Advocates for increasing access to high quality health care programs for all American Indians in Arizona. AACIHC assists Tribes and Urban Indian Health Organizations to develop comprehensive medical and public health care delivery and financing systems to meet the needs of American Indian Tribes in Arizona.

[**ALTCS Advisory Council**](#) - Assists the ALTCS Program by developing a work plan that addresses opportunities for new service innovations or systemic issues impacting ALTCS Members.

[**Autism Spectrum Disorder Advisory Committee**](#) - Addresses and provides recommendations to

The Arizona Court System

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Overview

The Arizona Court System is structured into a four-part hierarchy. The lowest courts comprise the municipal courts and the justice of the peace courts. These courts have limited jurisdiction. The higher courts are the superior courts, which exercise general jurisdiction. Above superior courts are the appellate courts, exercising appellate jurisdiction. The highest court in Arizona is the Supreme Court, exercising discretionary jurisdiction.

If one were to appeal a decision of the municipal or justice of the peace courts, the appeal would go to the superior court. An appeal of a superior court decision would go to the appellate courts. Finally, if a decision by an appellate court is appealed, the Supreme Court has the choice to review it.¹

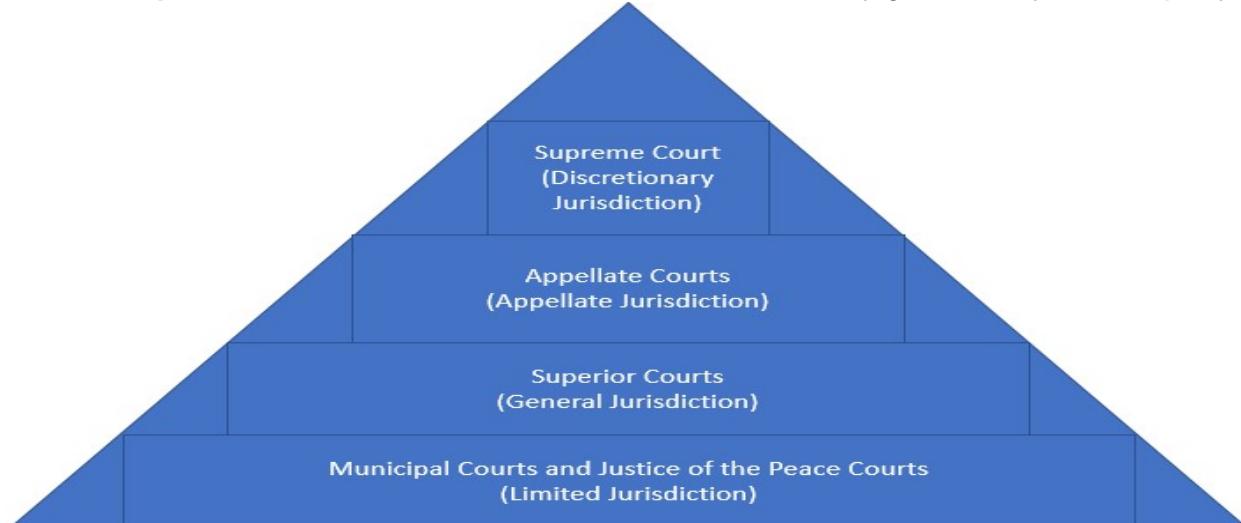
Definitions

An **appeal** is a legal process where an appellant, person or party appealing the judgment or decision of a court, asks a higher court to review a decision of the lower court.

Jurisdiction refers to a court's legal authority to hear and decide cases, or the performance of judicial power within established geographic, monetary or subject matter limits.

Preliminary hearings are a court proceeding determining if there is sufficient evidence against a person charged with a felony to proceed to trial.

An **unincorporated area** refers to an area of land that is not locally governed by a municipality.²



Municipal Courts

Municipal courts, also referred to as city or magistrate courts, have jurisdiction within their city or town. Municipal courts hear cases related, but not limited to, misdemeanor and civil traffic violations, city or town ordinance or code violations and other misdemeanor violations. Municipal

¹ [Arizona Courts; Today's Court System Has Three Levels](#)

2 Arizona Courts; Glossary

courts can grant orders of protection and injunctions against harassment and issue search warrants. There are no municipal courts in areas that are unincorporated, like Sun City, Arizona.

Judges in municipalities are usually appointed by the city or town council depending on the municipality's laws, but in Yuma, judges are elected.

Justice of the Peace Courts

A county's board of supervisors divides portions of incorporated cities and towns and unincorporated areas within the county to establish a justice court precinct. Justice of the peace courts are commonly referred to as 'JP' courts or 'justice' courts.

Like municipal courts, justice of the peace courts have jurisdiction within their precinct to hear cases related to traffic. Additionally, justice of the peace courts also hear cases related to domestic violence and harassment, cases involving non-substantial claims, and landlord and tenant disputes involving damages between \$5,000 and \$10,000. Justice of the peace courts also have criminal jurisdiction over cases involving, but not limited to, petty offenses and misdemeanors and less serious assault and battery offenses. Justice of the peace courts have jurisdiction over felony offenses to issue warrants and conduct preliminary hearings.

Justices of the Peace serve an elected term of four years.³

Superior Courts

The superior courts exercise general jurisdiction in Arizona. Each county has a superior court with one or more locations within the county. The Arizona Constitution states the superior court has the jurisdiction over cases related, but not limited to, divorces, wills and estates, evictions, naturalization, felony and misdemeanor cases, and other proceedings that are not exclusively vested in other courts ([AZ. Const. Art. VI § 14](#)). The superior court also reviews an appeal of a justice or municipal court decision.

Each county is required to have at least one superior court judge. The electorate elects judges from a majority of counties. Judges from Maricopa, Pima and Pinal counties, however, are appointed by the Governor, and then voted upon every four years by the electorate.

Moreover, if a county has more than one superior court judge, the county will have a special juvenile court with at least one superior court judge assigned. These judges will hear all cases related to delinquency, incorrigibility, and dependency, as well as some juvenile traffic cases.⁴

Appellate Courts

There are two appellate court locations in Arizona: Division One, located in Phoenix, and Division Two, located in Tucson. These courts exercise appellate jurisdiction, meaning decisions seeking consideration for appeal will be reviewed in the court of appeals. Any decision appealed from the superior courts will be heard in an appellate court.

Judges on the appellate courts are appointed by the Governor and face retention elections every six years.

The Supreme Court

The Supreme Court, also known as the court of last resort, is the highest court in Arizona. If a decision by an appellate court is again appealed, the Supreme Court, having discretionary jurisdiction, may choose to review or not review the decision. However, if the death sentence is

³ [Arizona Courts; Limited Jurisdiction Courts](#)

⁴ [Arizona Courts; General Jurisdiction Courts](#)

imposed in a particular instance, the Supreme Court will always review the decision. In addition to hearing appeals, the Supreme Court handles the State Bar of Arizona and can disbar attorneys for misconduct, hears claims between one county and another, and has the power to establish procedural rules in any court.

Seven justices are appointed by the Governor sit on the Supreme Court. Justices are subject to a retention election every six years. The Chief Justice, chosen by the other Supreme Court Justices, serves a term of five years and presides over impeachment trials of public officials in the Senate, but does not make guilty or innocent decisions in the trial.⁵

Other System Participants

Officials include the following:

- Commissioner – appointed officials that handle specific assigned cases and uncontested matters in areas relating to family law, child support, mental health and juvenile law.
- Constable – an elected executive role officer of a justice court that delivers and returns legal notices and documents.
- County Attorney – an elected officer who, along with their office, prosecutes on behalf of a county.

Participants in the courtroom include:

- Judge – the central figure in a courtroom that oversees courtroom proceedings and sentencing. In a bench trial, the judge will decide the case.
- Plaintiff – a person or party that brings a case against another person or party.
- Prosecutor – a prosecuting attorney represents a city, county or state in a criminal case.
- Defendant – a person or party that has a case brought against them.
- Defense Attorney – serves as the defense for the sued or accused defendant.
- Jury – a vetted group of people who give a verdict based on evidence in a jury trial.
- Bailiff – an individual who supervises a jury and keeps a courtroom orderly.⁶

⁵ [Arizona Courts: Appellate Courts](#)

⁶ [Arizona Courts: The Players in a Trial Courtroom](#)

Arizona Election Dates

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A. R. S. Title 16, Chapter 2

Primary Election: First Tuesday in August in a year when there is a general or special election held *not a legal holiday*

- At least 120 days before, the Secretary of State must prepare and transmit a notice in writing to each county board of supervisors that designates the state and federal offices for which candidates are to be nominated at the primary election.
- Not less than 30 days before the primary elections, a primary election entitling nominated candidates to have their names printed on the official ballots at municipal elections in incorporated cities and towns must be held.
- At least 180 days before each consolidated election prescribed in statute, each county board of supervisors must give notice in writing of the date of the election to each school district, community college district, city, town and special taxing district.

General Election: First Tuesday after the first Monday in November of every even-numbered year *not a legal holiday*

- At least 30 days before, the governor must issue a proclamation that contains the time of the election and the offices to be filled.
- After the Secretary of State issues the statewide canvass that contains the results of a presidential election, the presidential electors of Arizona must cast their electoral college votes for the candidates for president and vice president who jointly received the highest number of votes.

Presidential Preference Election: Tuesday immediately after March 15 of each year where the President of the United States is elected

- The governor is authorized to issue a proclamation stating that the presidential preference election will be held on a date later than the date above. This proclamation must be issued no later than 180 days before the date of the election.

Nonpartisan elections: Must be called no later than 150 days before the date of holding the election

- Includes elections held by a school district and a city or town that are not held concurrently with a general election.

In-person early voting: Available beginning 27 days before the election through the Friday before Election Day.

- Hours of operation vary by locations.



In 1988, Congress enacted the Indian Gaming Regulatory Act ([Act](#)), which regulates the conduct of gaming on Indian Lands. The Act requires an Indian tribe and a state to negotiate for a Tribal-State compact governing the conduct of class III gaming activities on Indian Lands. The Tribal-State compact must be submitted to and approved by the Secretary of Interior and published in the Federal Register.

Class III gaming is defined as: 1) any house banking game including cards games and casino games; 2) any slot machines and electronic or electromechanical facsimiles of any game of chance; 3) any sports betting and pari-mutuel wagering including wagering on horse racing, dog racing or jai alai; or 4) lotteries ([25 CFR§ 502.4](#)).

Statute permits the state, through the governor, to negotiate a Tribal-State compact with an Indian tribe. Additionally, authorizes the Arizona Department of Gaming (ADG) to carry out the duties and responsibilities in executing compacts pursuant to the Act ([A.R.S. § 5-601](#)).

In 2002, voters approved [Proposition 202](#), which established a new standard form for a Tribal-State gaming compact and codified the form within [statute](#). Further, the proposition prescribed standard compact provisions, which include the length of term of a compact, number of operating facilities, type of playable games and allocation of gaming revenue.

The Tribal-State gaming compacts between Arizona and the 22 federally-recognized Indian tribes in the state are substantially identical and outline the regulatory framework governing class III gaming. ADG's duties prescribed by statute and tribal-state gaming compacts include: 1) monitoring gaming operations; 2) investigating suspected compact violations; 3) conducting compact compliance reviews of gaming operations, facilities and activities of facility operators; 4) certifying gaming employees who are not enrolled tribal members; 5) certifying management contractors, financiers, manufacturers and suppliers of gaming devices, providers of gaming services and management officials; 6) administering the transfer of unused gaming device allocations; 7) providing problem gambling prevention, treatment and education; and 8) administering and allocating Indian tribes' state contributions through the Arizona Benefits Fund.

Currently, 16 Arizona Tribes operate 24 Class III casinos in the state. Another six Tribes do not have casinos but have slot machine rights that they may lease to other Tribes with casinos.

Under the Tribal-State compact, Tribes contribute between 1% and 8% of gaming revenues. [Contributions](#) are divided into two main areas: 12% to cities and counties and 88% to the Arizona Benefits Fund (Fund). Monies from the Fund are distributed as follows: 1) 2% to ADG Division of Problem Gambling; 2) 9% or \$8 million, whichever is greater, to ADG; 3) 56% to the Instructional-Improvement Fund; 4) 28% to the Trauma and Emergency Services Fund; 5) 8% to the Tourism Fund; and 6) 8% to the Wildlife Conservation Fund.

[Section 3\(h\) of the Compact](#), colloquially referred to as the *poison pill*, can be triggered if state law changes or is interpreted to permit anyone besides an Indian Tribe to operate gaming devices; any Class III Gaming not authorized by the Compact, other than *amusement gambling*, *social gambling* and *regulated gambling* as statutorily defined on May 1, 2002; or poker that was unlawful on May 1, 2002.

If any of the above occur, the Tribes gain the following rights without amendment to the Compact:

- 1) The tribes' contributions to the State are reduced to 0.75% of its Class III net revenue;
- 2) The tribes may operate Class III Gaming Devices without limitations on the number of gaming devices or facilities; and
- 3) The tribes may operate table games without limitations on the number of card game tables, wagers or types of games.

Arizona Income Tax Overview

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General

The Arizona income tax computation begins with federal adjusted gross income (FAGI) for individuals and federal taxable income (FTI) for corporations as computed pursuant to the internal revenue code (IRC). This is often referred to as “Piggybacking” by the IRC.

Internal Revenue Code Conformity

Although the Arizona computation starts with FAGI or FTI pursuant to the IRC, Arizona’s definition of the IRC is based on a date certain ([A.R.S. § 43-105](#)).

Each year the Arizona Legislature considers an “IRC conformity bill” which generally establishes the IRC as of January 1 of the current calendar year as the version of the IRC to be used for the taxable year that begins after December 31 of the prior year. In addition, the Legislature decides whether to conform to retroactive changes made to the IRC during the prior year.

Arizona’s income tax forms are usually made available to the general public by January following the end of the calendar year for which the forms are drafted. Importantly, the Arizona Legislature does not meet until after the forms are available to the public. In order to get the forms out in time for filing season the forms are drafted with the assumption that the Legislature will conform to any federal retroactive changes and in most cases this assumption is correct.

Generally, if the Legislature chooses not to conform, they will still “conform” to the new definition of the IRC for purposes of Arizona’s starting point and then add new additions or subtractions to make “non-conformity” adjustments. If this approach wasn’t taken, Arizona would have a different definition of the IRC than the one used to compute the taxpayer’s federal return, and a taxpayer would not be able to simply take the FAGI or FTI from their federal return and use it as the starting point for the Arizona return.

If a taxpayer filed a return and paid the taxes due based on the Arizona Department of Revenue (DOR) forms and instructions that assume conformity, they must amend their return to adjust for items that Arizona did not conform. The taxpayer will be held harmless and not be subject to penalties or interest if the amended return reporting the non-conformity changes is filed and paid by the extended due date of the following year’s return. ([A.R.S. § 43-107](#))

Individual Income Tax ([A.R.S §§ 43-1001 ~ 43-1099](#))

The Arizona return starts with FAGI from the federal return. FAGI is the amount on the federal return that includes gross income less federal adjustments. FAGI, however, does not include the federal standard, itemized or the qualified business deductions.

From FAGI, Arizona requires certain additions and subtractions to arrive at Arizona adjusted gross income. There are currently 15 additions to income and 27 subtractions from income.

The most common individual addition is for non-Arizona municipal interest that was not excluded from the federal return. The other additions are not very common.

The following are the most common Arizona subtractions:

- 1) Interest from obligations of the United States. ([A.R.S. § 43-1022\(4\)](#));

- 2) \$2,500 of any federal government or Arizona government pensions (includes political subdivisions) but does not include military pensions. ([A.R.S. § 43-1022\(2\)](#));
- 3) \$3,500 from military pensions. ([A.R.S. § 43-1022\(29\)](#));
- 4) Income from active service as a member of the armed forces, including reserves and National Guard, to the extent not already subtracted federally. ([A.R.S. § 43-1022\(11\)](#));
- 5) Social security and railroad retirement benefits not already excluded on the federal return. ([A.R.S. § 43-1022\(10\)](#));
- 6) 25% of net long-term capital gains from assets acquired after December 31, 2011. ([A.R.S. § 43-1022\(25\)\(c\)](#)); and
- 7) Exemptions of \$1500 for being blind or over 65. ([A.R.S. § 43-1023](#))

Arizona also excludes the income of a Native American if the individual lives and the income is earned on the reservation of the tribe of which they are a member.

After making the additions and subtractions above, the individual is allowed to choose between claiming itemized deductions or the Arizona standard deduction.

- 1) The Arizona itemized deductions are determined by starting with the itemized deductions determined for federal purposes and then increasing the deduction for medical expenses not allowed on the federal return. In addition, the federal itemized deduction is reduced for amounts allowed as a deduction for which the taxpayer received an Arizona credit;
- 2) The Arizona standard deduction is the same as the federal standard deduction (for 2019 the federal standard deduction was \$12,200 single, \$24,400 for married filing joint) increased by 25% of charitable deductions (excluding amounts for which an Arizona credit was allowed).

Arizona's individual income tax rate ranges from 2.59% to 4.5%. After determining the total tax, Arizona allows various refundable and non-refundable credits. Both types of credits reduce an individual's tax liability. However, if the credits are greater than the total tax:

- 1) The excess is refunded if it is a refundable credit; and/or
- 2) The excess is carried forward to use against future years if it is a non-refundable credit.

The most commonly used credits for individuals are:

- 1) Dependent credit (non-refundable) ([A.R.S. § 43-1073.01](#));
- 2) Property tax credit (refundable) ([A.R.S. § 43-1072](#));
- 3) Excise tax credit (refundable) ([A.R.S. § 43-1072.01](#));
- 4) School Tuition Organization Credits (non-refundable) ([A.R.S. § 43-1089](#));
- 5) Public School Credits (non-refundable) ([A.R.S. § 43-1089.01](#));
- 6) Qualifying Charitable Organization Credit (non-refundable) ([A.R.S. § 43-1088](#)); and
- 7) Qualifying Foster Care Organization Credit (non-refundable) ([A.R.S. § 43-1088\(B\)](#))

Withholding ([A.R.S §§ 43-401 ~ 43-435](#))

Withholding tax is an amount withheld from Arizona wages by employers. It is submitted to the state on behalf of the employee for the purpose of prepaying the employee's income tax. The withholding is deducted when the employee files their tax return. The employee must file a return within 4 years to get a refund of withholding.

Arizona Withholding is a percentage of gross taxable wages (wages under the IRC).

The employee may elect withholding on Arizona Form A-4 at any of the following percentages of gross taxable wages:

0%, .8%, 1.3%, 1.8%, **2.7%**, 3.6%, 4.2%, or 5.1%

If the employee expects to have no Arizona income tax obligation, the employee may select 0%. When the employee fails to make a selection, the default percentage is 2.7%.

Corporate Income Tax ([A.R.S §§ 43-1101 ~ 43-1184](#))

There are three methods corporations use to file in Arizona:

- 1) Separate Return – one entity included in the return;
- 2) Combined Return – Multiple commonly controlled entities required to be included in one return. The entities must be unitary (i.e. working together like one entity); and
- 3) Consolidated Return – Taxpayer makes a binding election to include all the entities that are part of the federal return in the Arizona return. In this method, the entities do not have to be unitary.

The Arizona corporate return starts with FTI from the federal return. FTI is then adjusted by Arizona required additions and subtractions. Currently, there are 24 additions and 22 subtractions.

The most common additions are:

- 1) Non-Arizona Municipal interest. ([A.R.S. § 43-1121\(1\)](#));
- 2) Adjustment relating to bonus depreciation claimed on the federal return. ([A.R.S. § 43-1121\(4\)](#));
- 3) Taxes based on income paid to states or foreign governments. ([A.R.S. § 43-1121\(8\)](#));
- 4) Federal net operating loss (Arizona allows its own loss). ([A.R.S. § 43-1121\(11\)](#)); and
- 5) Dividend received deduction claimed on the federal return. ([A.R.S. § 43-1121\(7\)](#))

The most common subtractions are:

- 1) Depreciation that would have been allowed on the federal return if the taxpayer had not claimed bonus depreciation. ([A.R.S. § 43-1122\(22\)](#));
- 2) Controlled corporation dividends. ([A.R.S. § 43-1122\(9\)](#));
- 3) Foreign dividends. ([A.R.S. § 43-1122\(11\)](#));
- 4) Interest income from obligations of the United States. ([A.R.S. § 43-1122\(10\)](#)); and
- 5) Arizona basis net operating loss. ([A.R.S. § 43-1122\(12\)](#))

After a taxpayer's federal taxable income (Arizona gross income) is adjusted by the additions and subtractions, a multistate taxpayer must determine the amounts that are allocated or apportioned to Arizona.

For the purpose of apportionment and allocation, Arizona has adopted the Uniform Division of Income for Tax Purposes Act (UDITPA). This act was adopted by approximately 21 states with the intent of making the apportionment and allocation laws as uniform as possible (although most states, including Arizona, have adopted some deviations to its uniformity).

Business income is apportioned using either:

- 1) A formula based on a property factor, a payroll factor each weighted at 25% and a sales factor weighted at 50%; or

- 2) 100% sales factor.

Each factor is determined by dividing the Arizona by the everywhere amount.

Non-business income is also allocated. Non-business income is income that is not related to the unitary business conducted in Arizona. For example, dividends from stock that is purely an investment and does not serve an operational purpose to the unitary business.

The current corporate income tax rate is 4.9% or \$50 whichever is more. After the total tax is calculated, tax credits are used to reduce the liability.

The most commonly used corporate credits are:

- 1) The increased research credit. This is generally non-refundable but can become refundable if the taxpayer has less than 150 employees and gets preapproved by the Arizona Commerce Authority. ([A.R.S. § 43-1168](#));
- 2) New Employment credit – (non-refundable) ([A.R.S. § 43-1161](#)); and
- 3) Credit for contributions to school tuition organizations – (non-refundable) ([A.R.S. § 43-1183](#)).

Arizona Public School Finance System

Arizona House of Representatives
House Legislative Research Staff
(602) 926 3848



History

Article 11 of the Arizona Constitution requires the Legislature to provide for a general and uniform public school system.¹ This public school system serves students from preschool to twelfth grade, students attending one of the three public universities and includes county jail education programs, the Arizona State Schools for the Deaf and the Blind and career technical education districts. Arizona is home to over 200 school districts, 1,300 district schools and nearly 850,000 students in kindergarten through the twelfth grade. Though the general and uniform clause has applied since statehood, the funding mechanism behind Arizona's public schools has changed considerably.

For decades, Arizona's public schools relied primarily on revenues generated by local property taxes, with little financial support from the state. This system led to significant disparities between school districts. For example, school districts in areas with higher property values could levy a lower property tax rate and still raise adequate funds. However, some school districts found that a higher property tax rate was insufficient due to low property values.

During the 1970s and early 1980s, dozens of lawsuits were filed against school districts and states across the country. These lawsuits challenged the status quo of public school financing and followed a similar argument: dependence on local property taxes creates large disparities between school districts, resulting in an uneven and inadequate public school system.² As a result, the Arizona Legislature commenced a total overhaul of its school finance system in the 1980s to achieve a more "general and uniform public school system."

As a result of these reforms, the Arizona Legislature enacted a new school finance formula centered around the *equalization base*.³ The equalization base attempts to decrease disparities between school districts by equalizing per-pupil funding for pupils across the state and by reducing a school district's dependence on local property taxes. The equalization formula combines a series of statutorily set per-pupil amounts, student weight measurements and transportation and capital support that are funded through local and state taxes.

Equalization Base

The equalization base serves as the expenditure limit for a school district. The equalization base consists of three primary components: the base support level, the transportation support level and district additional assistance.

BASE SUPPORT LEVEL + TRANSPORTATION SUPPORT LEVEL + DISTRICT ADDITIONAL ASSISTANCE

Base Support Level⁴

The base support level is comprised of four main components: weighted student count, a base level amount, teacher compensation and the teacher experience index.

¹ [Ariz. Cons. art. 11, sec. 1](#)

² For a list of cases, click [here](#).

³ This system was again reformed after the Arizona Supreme Court found the state's capital finance system in violation of the general and uniform clause in [Roosevelt v. Bishop](#).

⁴ [A.R.S. § 15-943](#)

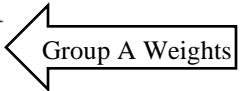
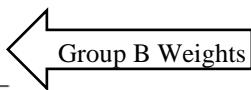
Weighted student count is calculated by taking a school district's student enrollment and applying weights. These weights are commonly referred to as *Group A* and *Group B* weights. Group A weights are afforded to every student and vary according to grade level (preschool with disabilities, K-8, 9-12) and school size (schools that are small or small and isolated receive a different Group A weight set). On top of these Group A weights, select students receive Group B weights. These weights are for students with physical or mental disabilities, English language learners or other characteristics outlined in statute.⁵

For example, Arnold is a fourth grader. He receives a base average daily membership (ADM) of 1.0. His base ADM is then increased by the Group A weight for K-8 students by 0.158. He is also classified as MD-SSI (meaning he is eligible for the Group B weight of multiple disabilities with severe sensory impairment). The MD-SSI categorization carries a Group B weight of 7.947. Therefore, Arnold's weighted student count is 9.105.

Weighted student count is calculated for every enrolled student and is then multiplied by the base level amount.

The base level amount is the base level of funding for each student. The base level amount is adjusted annually by the Legislature for inflation. For FY 2022, the base level amount is \$4,390.65.⁶ Additionally, the base level amount can be increased by 1.25% for teacher compensation.⁷ To receive this increase, a school district must be granted approval on an annual basis from the State Board of Education for its teacher performance evaluation system. With the increase for teacher compensation, the base level amount for FY 2022 is \$4,445.53.

Additionally, the teacher experience index authorizes a school district to increase its BSL by 2.25% for every year its teacher experience average exceeds the statewide teacher experience average.⁸

Non-AOI Student Counts					Student Count				
Student Count	PSD	K-8	9-12	Total	Student Count	PSD	K-8	9-12	Total
FY 2019-20 ADM	59,420	13,099.699	8,296.518	21,455.637	FY 2018-19 ADM	63,629	13,324.549	8,157.676	21,545.854
									
Weighted Student Counts		Student Count	Support Level Weight	Weighted Student Count					
FY 2019-20 ADM: District PSD		59,420	x	1.450 = 86.159					
District K-8		13,099.699	x	1.158 = 15,169.451					
District 9-12		8,296.518	x	1.268 = 10,519.985					
SubTotal		21,455.637		25,775.595					
									
Add-Ons	(FY 2019-20 ADM)	Student Count	Support Level Weight	Weighted Add-On Count					
K-3 Reading	4,928.703	x	0.040	= 197.148					
K-3	4,928.703	x	0.060	= 295.722					
ELL	549.322	x	0.115	= 63.172					
HI	17.330	x	4.771	= 82.681					
MD-R,A-R,SID-R	188.402	x	6.024	= 1,134.934					
MD-SC,A-SC,SID-SC	151.090	x	5.833	= 881.308					
MD-SSI	20.740	x	7.947	= 164.821					
OI-R	8.450	x	3.158	= 26.685					
OI-SC	19.200	x	6.773	= 130.042					
P-SD	19.230	x	3.595	= 69.132					
DD*,ED,MIID,SLD,SLI*,OHI	1,655.174	x	0.003	= 4.966					
ED-P	9.170	x	4.822	= 44.218					
MOID	31.165	x	4.421	= 137.780					
VI	10.370	x	4.806	= 49.838					
Total Weighted Student Count Add-Ons					3,282.447				
* School aged students only									

⁵ [A.R.S. § 15-901\(B\)\(6-24\)](#)

⁶ [Laws 2021, Chapter 404](#)

⁷ [A.R.S. § 15-952](#)

⁸ [A.R.S. § 15-941](#)

Base Support Level			Base Supt Level		
	Non-AOI	AOI-FT	AOI-PT	Non-AOI	AOI-FT
Ext BSL Amount	\$122,110,900.48	\$293,202.73	\$118,678.49	Weighted Student	25,775.595
Tchr Exp Index	1.0213	1.0213	1.0213	Weighted Add-On +	3,282.447
	\$124,711,862.66	\$299,447.95	\$121,206.34	Total Weighted	= 29,058.042
Extended BSL Amount Total			\$125,132,516.95	AOI Funding X	0.95
Base Support Level Adjustments Total			\$54,604.00	Base Level Amt X	\$4,202.31
				Ext Amount =	\$122,110,900.48
Base Support Level/Base Revenue Control Limit			\$125,187,120.95	Base Support Level Adjustments	\$293,202.73
					\$118,678.49

Teacher experience index →

Transportation Support Level⁹

The transportation support level is a statutorily set formula that is calculated by multiplying approved daily route mileage per student by the state support level per route mile, then adding an amount the school district spends on bus tokens and passes.

APPROVED DAILY ROUTE MILEAGE X STATE SUPPORT LEVEL + TOKENS/PASSES

Approved daily route mileage is the mileage required to transport eligible students to and from school for the 180- or 200-day school year. These amounts are established in statute as follows: 0.5 or less, more than 0.5 through 1.0 and more than 1.0. These approved daily route mileage categories correspond to the state support levels per route mile.

Statute provides three support levels that correspond to the approved daily route mileage amounts. These support levels are annually adjusted by the Legislature for inflation. Students transported 0.5 or less and more than 1.0 are assigned a state support level of \$2.77. Students transported more than 0.5 through 1.0 are assigned a state support level of \$2.27.¹⁰

A school district can add the amount spent during the prior fiscal year for bus tokens and bus passes when calculating its transportation support level.

<u>Calculation For TSL</u>	
<u>Approved Daily Route Miles</u>	
Total Approved Daily Route Miles	8,550
Eligible Students Transported	3,815
Unadjusted Route Miles Per Eligible Student	2.2410
State Support Level Per Route Mile	\$2.69
8,550.000 Miles x 180 Days	0.00
To and From School Support Level	\$4,139,910.00
Activity Trip Level Factor	0.18
Activity Trip Support Level	\$745,183.80
Handicapped Extended School Year Mileage	6,853
Handicapped Extended School Year Support Level	\$18,434.57
Annual Expenditures For: Bus Passes Bus Tokens	
Districts	\$0.00
	\$0.00
	\$0.00
2019-20 Transportation Support Level (TSL)	\$4,903,528.37

⁹ [A.R.S. § 15-945](#)

¹⁰ [Laws 2021, Chapter 404](#)

District Additional Assistance (DAA)¹¹

DAA is the final component of the equalization base. Previously, the equalization base consisted of two formulas intended for capital assistance for school districts. However, in 2013, these formulas were combined to create DAA.

UNWEIGHTED STUDENT COUNT X DAA SUPPORT LEVEL AMOUNT+ AMOUNT FOR TEXTBOOKS

Unweighted student count (not to be confused with weighted student count) is a school district's student count prior to any Group A or Group B weights. This number is then multiplied by statutory DAA support level amounts that vary according to unweighted student count and grade range. Unlike other components of the equalization base, these amounts have not been adjusted by the Legislature for inflation.

Unweighted Student Count	Grade Level	DAA Support Level
99 or less	K-8	\$544.58
	9-12	\$601.24

100-599	K-8	\$389.25 X Small School Weight
	9-12	\$405.59 X Small School Weight

600+	K-8	\$450.76
	9-12	\$492.94

N/A	Preschool with Disabilities	\$450.76
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Finally, a school district that serves the 9th-12th grades can increase its DAA allotment for the purchase of required textbooks and related printed subject matter materials. The amount for textbooks is calculated by multiplying unweighted student count of students in the 9th-12th grades by \$69.68.

Reductions in the DAA formula amounts started in 2010. Laws 2020, Chapter 49 enacted a phased-in restoration of DAA, with the formula fully restored by FY 2022.¹²

¹¹ [A.R.S. § 15-961](#)

¹² [Laws 2021, Chapter 404](#)

District Additional Assistance (DAA) Calculations	PSD	K - 8	9 - 12	Total
FY 2019-20 District Student Count	492,498	40,072,460	18,746,686 0.000	
Type 03 District Tuition Out Trans. Count				
DAA Per Student Count <i>(For Type 03 High School Only. Per Student Count Factor at 50%)</i>	X \$450.76 = \$221,998.40	X \$450.76 = \$18,063,062.07	X \$492.94 = \$9,240,991.40	\$27,526,051.87
DAA Growth Factor				
FY 2019-20 Actual Student Count	59,311,644			
FY 2018-19 Actual Student Count	/ 59,905,240			
FY 2019-20 DAA Growth Factor	= 0.9901	X 0.9901*	X 0.9901*	X 0.9901*
<i>* If less than or equal to 1.05, use 1. If greater than 1.05, use 1 plus 50% of growth.</i>				
District DAA	\$221,998.40	\$18,063,062.07	\$9,240,991.40	\$27,526,051.87
DAA For High School Textbooks				
FY 2019-20 Actual 9-12 Student Count			18,746,686	
Support Level Amount For Textbooks			X \$69.68	
DAA For Textbooks				\$1,306,269.08
DAA Adjustment	(\$6,186,498.26)	(\$3,120,705.38)	(\$9,240,991.40)	\$26,832,320.95
Total FY 2019-20 DAA Base	\$12,098,562.21	\$7,426,555.10	\$19,525,117.31	(\$9,307,203.64)

Funding

A school district's funding comes from local and state taxes, as well as monies from the state General Fund (GF).

The qualifying tax rate (QTR) is the local contribution to a school district's equalization base.¹³ The QTR is a local primary property tax levy assessed on property within the school district's boundaries. The QTR is subject to truth in taxation (TNT) laws. The QTR for tax year 2021 is \$1.7694 for a high school district or a common school district within a high school district that does not offer instruction in high school subjects and \$3.5388 for a unified school district, common school district not within a high school district or a common school district not within a high school district that offers instruction in high school subjects.

In addition to the QTR, the state equalization tax rate (SETR) requires each county board of supervisors, when levying other taxes, to assess an additional tax rate on property owners to fund equalization base costs.¹⁴ SETR monies are apportioned to each school district within the respective counties. Like the QTR, the SETR is subject to TNT laws. The SETR for tax year 2021 is \$0.4263.

Statute requires counties to levy a property tax on property that is not located within a school district. This levy must be one-half of the QTR per \$100 of assessed property valuation. The monies collected are transmitted by the county treasurers to the state treasurer for deposit into the state GF.¹⁵

There are some school districts that are non-state aid districts, meaning that these school districts do not receive equalization assistance. In these school districts, the value of the taxable property is sufficient to fund the school district's equalization base, meaning that the state does not have to provide any monies in the form of basic state aid. Statute requires that non-state aid districts levy the minimum qualifying tax rate (MQTR) if the school district's property tax rate that funds their portion of the equalization base is below 50% of the QTR. Statute mandates that these school districts maintain the MQTR at 50%

¹³ [A.R.S. § 41-1276](#)

¹⁴ [A.R.S. § 15-994](#)

¹⁵ [A.R.S. § 15-991.01](#)

of the QTR, with all excess funds generated being sent to the state for deposit into the state GF.¹⁶

To determine the sources of funding for a school district, the school district's equalization base amount is calculated. Monies generated by the QTR are applied to the equalization base amount; if the QTR is sufficient to cover costs, then no basic state aid is provided. If the QTR is insufficient, the outstanding equalization base amount is paid with monies generated by the SETR from the school district's respective county. If the QTR and SETR are insufficient to cover equalization base costs, the school district receives basic state aid payments from the state GF.

¹⁶ [A.R.S. § 15-994](#)



The Arizona Constitution requires the Legislature to provide for the establishment and maintenance of a general and uniform public school system and vests the supervision over this system in the State Board of Education (SBE), the Superintendent of Public Instruction (SPI), county school superintendents and local school district governing boards ([Ariz. Const. art. 11 sec. 1](#)). Additionally, the state Constitution mandates that the Legislature also enact laws to provide for the education and care of pupils who are hearing and vision impaired, as well as the establishment of a board of regents for the public universities.

As a result, the Arizona public school system is primarily governed by four policymaking and administrative state entities: SBE, the Arizona Department of Education (ADE) (which is led by the SPI), the Arizona State Schools for the Deaf and the Blind (ASDB) and the Arizona Board of Regents (ABOR).

SBE

As established by the state Constitution, SBE is the policymaking body for the Arizona public school system. Statute authorizes SBE with numerous powers, which include:

- 1) Supervising and regulating the public school system, including adopting any rules and policies it deems necessary;
- 2) Delegating to the SPI the execution of policies and rules adopted by SBE;
- 3) Recommending changes to statutes pertaining to schools to the Legislature;
- 4) Aiding in the enforcement of laws relating to public schools;
- 5) Prescribing a minimum course of study in schools;
- 6) Prescribing minimum competency requirements for the graduation of students from the third grade, eighth grade and from high school;
- 7) Issuing certificates to individuals requiring certification in public schools; and
- 8) Imposing disciplinary action for individuals found to have engaged in immoral or unprofessional conduct ([A.R.S. Title 15, Chapter 2, Article 1](#)).

For example, SBE is responsible for the final adoption of letter grades for public schools, adopting a statewide assessment in English language arts, mathematics and science, adopting academic standards and for providing teaching certification to eligible individuals for Arizona public schools.

SBE is [comprised](#) of 11 members, including the SPI and 10 members appointed by the Governor and confirmed by the Senate, who serve four-year terms:

- 1) SPI (ex-officio);
- 2) The president of a state university or college;
- 3) Four lay members;
- 4) A president or chancellor of a community college district;
- 5) A person who is an owner or administrator of a charter school;
- 6) A superintendent of a high school district;
- 7) A classroom teacher; and
- 8) A county school superintendent.

ADE and SPI

The SPI is tasked with overseeing the Arizona public school system and ADE. The SPI is a constitutionally created executive office and is elected by the voters to a four-year term (the SPI may serve two consecutive four-year terms). Although the SPI is constitutionally mandated to

supervise the public school system, ADE was not officially established by the state Legislature until 1970 (Laws 1970, Chapter 175). The SPI oversees the operations of ADE.

The SPI is required to execute the policies adopted by SBE and perform the administrative functions of ADE. The SPI and ADE oversee county-level education agencies, school districts, charter holders and career and technical education districts.

While statute outlines the specific powers delegated by the Legislature to ADE and the SPI, more broadly speaking, ADE directs services that include:

- 1) School funding;
- 2) Professional training;
- 3) Technical assistance to schools;
- 4) Administering and distributing state and federal education monies to local educational agencies (LEAs); and
- 5) Collecting student data for state funding ([A.R.S. Title 15, Chapter 2, Articles 2-3](#)).

As head of ADE, the SPI is responsible for the distribution of nearly \$6,000,000,000 in state monies. These monies include basic and additional state aid, results-based funding, special education and numerous other programs established by the Legislature. Furthermore, both the ADE and SPI are required to execute the policies set by SBE, though the state Constitution provides that the SPI is an ex-officio member on any board having control of public instruction in any state institution (i.e. SBE, ASDB, First Things First).

Additionally, the SPI and ADE work closely with SBE in multiple aspects, including but not limited to: investigation into accusations against certified personnel, state aid calculations, letter grade assignment and statewide assessments.

ASDB

Officially established by Laws 1929, Chapter 93 (though operating since 1912), ASDB is responsible for providing schools and regional programs across the state to children who are deaf and blind ([A.R.S. 15-1302](#)). Like other entities responsible for overseeing the public school system, ASDB is required to follow SBE's policies.

ASDB is governed by a 10-member board of directors (eight of whom are appointed by the Governor) and is responsible for appointing a superintendent to oversee ASDB. Members are as follows:

- 1) The Governor (ex officio, nonvoting);
- 2) SPI or designee;
- 3) One member from the Commission for the Deaf and Hard of Hearing;
- 4) One member from the Governor's Council on Blindness and Visual Impairment;
- 5) One member who is a school district employee and who works with the district's program for sensory impaired pupils;
- 6) Preference given to three members who have experience in and knowledge of sensory impaired education; and
- 7) Two other members.

ASDB currently operates two main campuses, the ASDB Tucson Campus and the Phoenix Day School for the Deaf. Additionally, ASDB participates in five regional cooperatives to provide educational services and supports to students across Arizona:

- Southeast Regional Cooperative (Tucson);
- Southwest Regional Cooperative (Yuma);
- Desert Valleys Regional Cooperative (Phoenix);
- Eastern Highlands Regional Cooperative (Holbrook); and

- North Central Regional Cooperative (Flagstaff).

Finally, ASDB operates the ASDB Early Childhood and Family Education Program which provides mostly at-home services to deaf, hard of hearing, blind or visually impaired infants and toddlers.

ABOR

ABOR serves as the governing body of the state university system. Statute outlines the many powers of ABOR, though generally speaking, ABOR is responsible for establishing policies, providing guidance, governance and administration of Arizona's public universities. Each university serves as an extension of ABOR: currently, ABOR oversees Arizona State University, Northern Arizona University and the University of Arizona.

The powers of ABOR include:

- 1) Exercising the powers necessary for the effective governance and administration of the universities;
- 2) Appointing university presidents, vice-presidents, deans, professors, instructors, lecturers, fellows and other officers;
- 3) Fixing tuitions and fees to be charged between institutions and between residents, nonresidents, undergraduate students, graduate students and students from foreign countries;
- 4) Establishing curricula and designating courses;
- 5) Awarding degrees;
- 6) Prescribing qualifications for admission of all students to the universities; and
- 7) Adopting annually an operating budget for each university ([A.R.S. 15-1626](#)).

ABOR consists of 12 members, 10 of whom are appointed by the Governor and confirmed by the Senate:

- 1) 8 members;
- 2) 2 student members;
- 3) The SPI (ex officio); and
- 4) The Governor (ex officio).

Regents appointed by the Governor serve 8-year terms while student regents serve 2-year terms.



(A.R.S. Title 41, Chapter 1, Article 4)

The Office of the Arizona State Treasurer is responsible for the investment management and banking duties for the state. The Treasurer is authorized to appoint a deputy state treasurer and administer all oaths that are prescribed by law in matters relating to the duties of the Office of the State Treasurer. Additionally, the Treasurer may qualify and select investment managers or advisors.

Powers & Duties ([A.R.S. § 41-172](#))

Current statute outlines various responsibilities of the Treasurer such as receiving and keeping all monies in secure custody that belong to the state and are not required to be received and kept by another person. When monies are deposited into the treasury, the Treasurer must file and keep the documentation that is delivered to the Treasurer. The Treasurer must also keep separate accounts of different funds and appropriations of money and keep an account of all monies received and disbursed. Each person that deposits money into the treasury must be provided with a unique identifying number and a confirmation that shows the date, amount and depositing agency.

The Treasurer is responsible for authenticating certain documents and writings certified by the Treasurer with the Office's seal. At the request of a member of the Legislature, the Treasurer must give the condition, in writing, of the state treasury or any subject relating to the duties of the Treasurer. Also, the Treasurer exercises specific powers of the surveyor-general as a member of the selection board established in statute.

Warrants that are drawn by the Arizona Department of Administration (ADOA) must be paid by the Treasurer in the order they are presented. Each month, the Treasurer is responsible for delivering an accurate statement of receipts and expenditures of public monies for the preceding month to the governor and ADOA. This statement must contain a complete exhibit of all public monies received and paid from the state treasury and show on what accounts and from what sources they were received and for what object or service the monies were paid. Additionally, in coordination with the director of ADOA, on or before February 1 of each year, the Treasurer needs to submit a report to the Joint Legislative Budget Committee. This report must explain any differences between the department of administration's estimate of the previous fiscal year's general fund ending balance and the Treasurer's estimate of the invested balance.

For more information on specifics and the funds that the Arizona State Treasurer's Office manages, visit their website: www.aztreasury.gov



The Arizona Teachers Academy (Academy) was established by [Laws 2017, Chapter 310](#) to incentivize students to enter the teaching profession and to commit to teach in Arizona public schools. Students in the Academy receive tuition and fees scholarships, subject to service requirements. Statute requires each public university and community college that offers postbaccalaureate programs that lead to teacher certification (eligible postsecondary institutions) to implement an Academy. [Laws 2020, Chapter 85](#) allows a college that is owned, operated or chartered by a qualifying Indian tribe on its own reservation and that offers baccalaureate teacher education programs to participate in the Academy.

The Arizona Board of Regents (ABOR), in collaboration with the universities, is responsible for developing and implementing administrative processes for each Academy, including:

- 1) A marketing and promotion plan to recruit students;
- 2) Data collection and reporting;
- 3) Tracking postgraduation service requirements;
- 4) Coordinating induction services;
- 5) Distributing monies from the Academy Fund; and
- 6) Collecting reimbursement from individuals who fail to meet service obligations.

Each Academy may include new or existing teacher preparation program pathways that are student-focused and that employ proven, research-based models of best practices. Each eligible postsecondary institution may develop and offer a portfolio of teacher preparation programs that include accelerated models for:

- 1) High-demand teacher specializations, including special education, science, technology, engineering and mathematics;
- 2) Critical need areas, including low-income public schools, public schools located on Indian reservations, rural public schools and schools that serve primarily public school students with disabilities;
- 3) Individuals seeking postbaccalaureate coursework that result in professional certification;
- 4) Teachers who are teaching a dual enrollment course to satisfy the requirements for teaching a dual enrollment course adopted by a higher learning commission that accredits degree-granting universities and colleges in the north central region, including Arizona; and
- 5) Students in noneducation programs to complete one or more teacher preparation courses to prepare the student to receive a teaching certification following graduation ([A.R.S. § 15-1655](#)).

Eligible postsecondary institutions are required to develop formalized partnerships, through targeted recruitment, with public schools to build commitments for teacher employment upon completion of the Academy. The targeted deployment of teachers who have completed the Academy is based on the needs of each school system and the community that is being served, as well as the individual skills of each teacher.

Each eligible postsecondary institution that admits students into the Academy may give priority to senior and junior students but may not exclude sophomore and freshmen students. In FY 2021, 949 students earned degrees in 84 different academic programs ([Arizona Teachers Academy Annual Report, 2021](#)).

Academy Scholarships

Eligible postsecondary institutions are required to provide each student who is enrolled in the Academy the following annual scholarships:

- 1) Up to the actual cost of tuition and fees for a maximum of two academic years or four semesters for graduate university students;
- 2) Up to the actual cost of tuition and fees for a maximum of four academic years or eight semesters for undergraduate university and community college students;
- 3) Up to the actual cost of obtaining national board certification and renewal; and
- 4) Up to the actual cost of obtaining a teaching certificate.

Scholarship amounts are determined after all other financial gifts, aid or grants have been received by the student. If a scholarship does not cover tuition and fee costs after other aid is received, the eligible postsecondary institution may not charge students the remaining difference.

Scholarships are subject to various requirements, including:

- 1) If the student does not successfully complete the academic year in good academic standing, the student must reimburse ABOR for the total amount of the scholarship the student received for that year;
- 2) For each academic year that a student successfully completes and receives a scholarship, the student must agree to teach for one full school year in an Arizona public school; and
- 3) If a student does not fulfill their obligation to teach in a public school, the student must reimburse ABOR for the proportional amount of the scholarship that corresponds to the number of school years the student agreed to teach but did not teach in an Arizona public school ([A.R.S. § 15-1655](#)).

Academy Fund

The Academy Fund consists of legislative appropriations and is administered by ABOR. ABOR is tasked with establishing criteria for distributing Academy Fund monies each fiscal year to fund the costs of the Academy. A college owned, operated or chartered by a qualifying Indian tribe may also receive Academy Fund monies. Academy Fund monies may only be used for:

- 1) Reimbursing scholarships for undergraduate, graduate and postbaccalaureate students enrolled in the Academy;
- 2) Support for teachers who are currently employed in an Arizona public school and who are seeking a national board certification;
- 3) Induction services for Academy graduates; and
- 4) Implementing a marketing and promotion plan to recruit and retain students in the Academy and administering the Academy, not to exceed 3% of Academy Fund monies each fiscal year ([A.R.S. § 15-1655](#)).

Mandatory Motor Vehicle Insurance

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Pursuant to [A.R.S. § 28-4135](#), any individual operating a motor vehicle on a roadway is required to provide proof of financial responsibility, demonstrating an ability to respond to damages for accident liability. Financial responsibility may be evidenced by an auto liability policy, a certificate of self-insurance or an alternate method of coverage.

Liability Policy

An individual may purchase an auto liability policy from a licensed insurer. [A.R.S. § 28-4009](#) establishes minimum coverage limits for auto liability policies.

For policies that were issued or renewed prior to June 30, 2020, which may be referred to as 15/30/10 coverage:

- 1) \$15,000 for bodily injury to or death of one person in any one accident;
- 2) \$30,000 for bodily injury to or death of two or more persons; subject to the limit for one person; and
- 3) \$10,000 for injury to or destruction of property of others.

For policies that are issued or renewed after July 1, 2020, which may be referred to as 25/50/15 coverage:

- 1) \$25,000 for bodily injury to or death of one person in any one accident;
- 2) \$50,000 for bodily injury to or death of two or more persons; subject to the limit for one person; and
- 3) \$15,000 for injury to or destruction of property of others.

Self-Insurance

The Director of ADOT (Director) may issue a certificate of self-insurance as proof of financial responsibility to individuals who own at least 10 vehicles and are determined to be financially able (and will continue to be able) to pay for judgments against them ([A.R.S. § 28-4007](#)).

Alternate Method

Pursuant to [A.R.S. § 28-4076](#), the following alternate methods of proof of financial responsibility may be filed with the Director: a certificate of insurance or a certificate of deposit.

An individual may give proof of financial responsibility by filing with the Director a written certificate from an insurance carrier authorized in this state certifying there is an auto liability policy in effect for a designated motor vehicle ([A.R.S. § 28-4077](#)).

A nonresident who owns a motor vehicle that is not registered in Arizona may give proof of financial responsibility by filing with the Director a written certificate from an authorized insurance carrier in the state in which the vehicle is registered. The Director must accept the certificate if the insurance carrier complies with certain conditions ([A.R.S. § 28-4078](#)).

Alternatively, individuals may obtain a certificate of deposit as proof of financial responsibility by depositing \$40,000 with the Office of the State Treasurer (Treasurer). The Treasurer cannot issue a certificate, and the Director cannot accept the certificate, unless the depositor can provide proof that there are no unsatisfied judgments against the depositor in the county they reside. The Treasurer must hold the deposit to satisfy any judgment against the depositor relating to damages for accident liability resulting from the ownership, maintenance or use of a motor vehicle ([A.R.S. § 28-4084](#)).

Arizona Peace Officer Standards and Training Board Certification Requirements

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Overview

The Arizona Peace Officer Standards and Training Board (AZPOST) was created by the Legislature in 1968. Currently, AZPOST is tasked with mandating minimum peace officer selection, recruitment, retention and training standards, as well as providing curriculum for all certified law enforcement training facilities. AZPOST stands to increase public trust and confidence by creating and maintaining standards of integrity, competence, and professionalism for Arizona peace officers and correctional officers.¹ AZPOST currently oversees approximately 163 law enforcement agencies and maintains over 14,500 sworn peace officers, 6,500 correctional officers and 13 police training academies in Arizona.

The AZPOST Board consists of 13 members, appointed by the Governor, which include members of law enforcement, the Attorney General, department directors, a correctional employee, a college faculty member and two members of the public.²

Peace Officer Certification Requirements

AZPOST sets minimum standards for certifications and requires an individual who is acting as a peace officer to be certified. Certified status is achieved by meeting minimum qualifications and training requirements.³ In order to attend or be appointed to an AZPOST academy, an applicant must meet various minimum standards, which include:

- 1) being a United States citizen;
- 2) being at least 21 years old;
- 3) having either a high school diploma, a GED or holding a degree from an institution of higher education recognized by the U.S. Department of Education;
- 4) undergoing a background check, a medical examination and a polygraph examination; and
- 5) reading the AZPOST ethics code and agreeing to abide by it with a signature.

In order to attend or be appointed to an AZPOST academy, an applicant cannot have:

- 1) been convicted of a felony or an offense that would be considered a felony in Arizona;
- 2) been dishonorably discharged from the U.S. Armed Forces;
- 3) been previously denied certified status, had certified status revoked, suspended or surrendered;
- 4) illegally possessed, produced or used marijuana within the past three years or for any reason other than experimentation or while serving as a peace officer;
- 5) illegally sold or produced or cultivated or transported for sale any dangerous drug or narcotic;
- 6) illegally used a dangerous drug or narcotic other than marijuana in the past seven years or for any purpose other than experimentation or while serving as a peace officer; or
- 7) a pattern of abuse of prescription medication.⁴

¹ [AZPOST](#)

² [A.R.S. § 41-1821](#)

³ [AAC R13-4-103](#)

⁴ [AAC R13-4-104](#)

Overview of The Drought Contingency Plan

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Introduction

The Drought Contingency Plan (DCP) refers to a series of interlocking international, regional, and state-level agreements that generally govern Colorado River water usage through 2026. These agreements are intended to minimize any declines in the river's two main reservoirs (Lake Powell and Lake Mead) by encouraging participants to make intentionally created surplus (ICS), which is water that is deliberately stored in these reservoirs for use later. Additionally, Arizona's plan explains how ICS deliveries will be offset by conserving additional water and how reductions in Colorado River water diversions will be mitigated through firming, additional water deliveries, compensation to those affected by reductions, and infrastructure funding.

Law of the River

The Colorado River's waters have been allocated by nearly a century of federal law, compacts, contracts, agreements, court decisions and decrees, treaties, and other regulatory documents which are collectively known as the "Law of the River." These arrangements arose because the Colorado River provides water for seven U.S. states and two Mexican states over its 1,450-mile journey to the Gulf of California. The "Law of the River" has annually allocated 16.5 million acre-feet¹ (MAF) of the river's waters as follows:

- The Lower Basin states are allocated 7.5 MAF, which is divided between Arizona (2.8 MAF), California (4.4 MAF), and Nevada (300,000 acre-feet (AF)). California's allocation has a higher priority than the allocations for Arizona and Nevada.
- Upper Basin states are allocated 7.5 MAF which is proportionately divided between Colorado (51.75%), New Mexico (11.25%), Utah (23%), and Wyoming (14%). The Upper Basin states must ensure that, on a rolling ten-year average, 7.5 MAF is annually delivered to the Lower Basin states.
- Mexico is allocated 1.5 MAF.

The "Law of the River" also includes several tribal water rights settlements that have set aside portions of each state's allocation. However, the river's natural flows have often fallen short of the 16.5 MAF annually allocated, and a basin-wide drought since 2000 has further stretched available supplies. In fact, the river's natural flows averaged about 12.4 MAF annually between 2000 and 2018.

In the United States, the Bureau of Reclamation (Bureau)—which is within the Department of Interior—primarily manages and operates the river, including various reservoirs that store and release waters to generate hydro-electric power, control flooding, and deliver water. The Bureau carries out the Secretary of Interior's (Secretary) role as the water master for the Lower Basin states by contracting with entities in this region to deliver water. For example, the Central Arizona Water Conservation District (CAWCD) contracts with the Bureau for 1.5 MAF of Colorado River water that is annually delivered through the Central Arizona Project (CAP), which it then subcontracts to users in Maricopa, Pinal, and Pima Counties.

¹ An acre-foot is enough water to cover one acre of land to a depth of one foot, which is approximately 326,000 gallons. This amount of water can supply about three average homes for one year.

Overview of regional, international, and state-level agreements in the Drought Contingency Plan

Regional Agreements

When Congress passed [P.L. 116-14](#) in April 2019, it directed the Secretary to carry out three drought contingency agreements to manage reductions in Colorado River deliveries among the several Colorado River Basin states. Two agreements involve the Upper Basin states:

- The first agreement focuses on ensuring that Lake Powell does not fall below 3,525 feet in elevation, which would undermine hydroelectric generation and water deliveries. The Bureau will conduct annual studies that project this reservoir's elevation. When this projection indicates that the reservoir will fall below the target elevation, the parties involved will develop and implement a drought response plan and monitor this plan until future studies project that the reservoir will be above the target elevation. When designing this plan, the parties must prioritize adjustments in the volumes released from Glen Canyon Dam followed by changes to operations for the Initial Units.²

2007 Interim Guidelines

The 2007 Interim Guidelines directed the Bureau to publish each August its projections for the elevations of Lake Mead and Lake Powell in January 1 of the following year. The projected elevations determine releases from these reservoirs and curtailments in deliveries to Lower Basin states. To avoid reductions, the guidelines established a way for those in Lower Basin states to voluntarily store water in Lake Mead. These parties could create ICS through projects that achieve water system efficiency, conserve water, or import non-Colorado River System water into the Colorado River's mainstream. Those that created ICS can use this surplus in the future, subject to certain restrictions. The amount of ICS these parties have stored in Lake Mead has ranged from nearly 718,000 AF in 2015 to over 1.7 MAF in 2018. As of calendar year 2018, Arizona parties had stored about 343,000 AF of ICS.

- The second agreement authorizes the Secretary to make unfilled storage capacity at Initial Units available to Upper Basin states for storing water that will be conserved as part of a basin-wide demand management program. This agreement outlines conditions and agreements for this program, including how this water must be stored and how this program will be approved. The maximum combined storage limit at these initial units is 500,000 AF. The other drought contingency agreement focuses on the Lower Basin states and lasts through 2026. This agreement:
 - Instructs the Secretary, after consulting with Colorado River water contractors, to create or conserve over 100,000 AF annually in the Colorado River and its tributaries for Lake Mead and other Lower Basin reservoirs.
 - Requires each Lower Basin state to implement intra-state DCP agreements between contractors, tribes, local governments and other stakeholders that establish rights and obligations related to the Lower Basin Drought Contingency

Operations Agreement (see page 3 for more information on Arizona's plan agreement).

- Implements the Lower Basin Drought Contingency Operations Agreement, which builds on the 2007 Interim Guidelines that authorized states to conserve water in Lake Mead and prescribed delivery curtailments based on this reservoir's projected elevation (see textbox on page 2 for information on these guidelines). Specifically, the Lower Basin Drought Contingency Operations Agreement builds on these guidelines by requiring additional annual DCP contributions from Lower Basin states based on Lake Mead's projected elevation (see Table 1 on page 4). DCP contributions involve creating different types of ICS or non-ICS water to be stored in Lake Mead. Under specified conditions, certain types

² The Initial Units refer to the four main units that make up the Upper Colorado River Storage Project: the Navajo Dam (New Mexico), Flaming Gorge Dam (Utah), Glen Canyon Dam (Utah), and Aspinall Storage Unit, which consists of three dams (Blue Mesa Dam, Morrow Point Dam, and Crystal Dam) in western Colorado. This project stores water to control floods, generate hydroelectricity, and allow the Upper Basin states to fully use their allocation of Colorado River water.

of ICS can be delivered back to its creators in the future.³ However, no ICS will be delivered if Lake Mead's elevation is at or below 1,025 feet. When Lake Mead's actual January 1 elevation is higher than projected, any ICS that was created can remain available for deliveries. Conversely, if a state's DCP contribution fell short, that state must make up any shortfall along with any required annual DCP contributions in the year that the Water Accounting Report is published.⁴

Table 1. Arizona's DCP contributions (in AF) based on Lake Mead's elevation (in feet above mean sea level)

Lake Mead's projected elevation	Arizona's DCP contribution	Arizona's tier shortage
Above 1,075 and at or below 1,090	192,000	Tier 0
Above 1,050 and at or below 1,075	512,000	Tier 1
Above 1,045 and at or below 1,050	592,000	Tier 2a
Above 1,025 and at or below 1,045	640,000	Tier 2b
Below 1,025	720,000	Tier 3

Arizona's Drought Contingency Plan and Agreement

As required by the Lower Basin Drought Contingency Plan, Arizona created its own intra-state DCP agreement that outlines how additional water will be provided to offset reduced Colorado River diversions, compensates certain users for these reductions, and finances water infrastructure projects. Under this agreement, the CAWCD will provide some of Arizona's DCP contributions, which will decrease the amount of CAP water available. The agreement addresses this reduction through the following two components:

Mitigating current reductions

This agreement will mitigate Arizona's DCP contributions by firming current water supplies,⁵ delivering additional water including ICS that CAWCD has stored in Lake Mead (CAP ICS), and providing compensation and infrastructure funding to certain users.

Reduced CAP water deliveries that result from Arizona's DCP contributions will impact subcontractors differently because of how these deliveries are prioritized. In 1983, before CAP was completed, the Secretary divided the project's water into different pools for municipal and industrial users (M&I), Indian tribes, and non-Indian agricultural users (NIA). The tribal and M&I pools were given preference over the NIA pool, which meant that reductions in CAP water deliveries would impact the NIA pool first. However, because CAP water was too expensive for farmers and irrigation districts, all water in the NIA pool was either sold or re-allocated to M&I and

³ Both the 2007 Interim Guidelines and the Lower Basin Drought Contingency Operations Agreement authorize different types of ICS that are classified based how it was created. For example, a contractor can create Extraordinary Conservation ICS by fallowing historically irrigated lands, lining canals, or using desalinated water in lieu of mainstream Colorado River water.

⁴ The Bureau publishes water accounting reports for a calendar year in the following May. For example, the water accounting report calendar year 2018 was published in May 2019. The Bureau is required to publish this report as part of the U.S. Supreme Court's decree in *Arizona v. California* (1964) and consolidated decree in *Arizona v. California* (2006).

⁵ Firming involves providing back-up water supplies to users when current supplies are insufficient.

tribal users. A new pool was created in 2004 that offered a certain amount of CAP water at a reduced cost to farmers and irrigation districts through 2030.

The framework addresses impacts to these groups from Arizona's DCP contributions in the following ways:

- The agreement between the Gila River Indian Community (GRIC), CAWCD, Arizona Department of Water Resources (ADWR), and several Phoenix-area cities focuses on efforts to satisfy water orders for the NIA pool. When reductions in CAP water occur as a result of Arizona's DCP contributions, this agreement explains how the NIA pool will be stabilized.
 - When Arizona's DCP contributions reduce available CAP water so that NIA deliveries cannot be fully satisfied in 2020-2025, CAWCD will use *mitigation resources* to fully meet all water orders during Tier 1-2b shortages in 2020-2022. However, in 2023-2025, these resources will only be used to partially satisfy NIA orders based on the tier shortage (see Table 1, page 3 for the tier shortage based on Lake Mead's elevation). Further, these resources will not be used in a Tier 3 shortage. These *mitigation resources* are:
 - *Mitigation water* that consists of 400,000 AF of CAP ICS and 50,000 AF of CAP water.
 - *Compensated mitigation resources* that include up to \$60 million that the CAWCD Board has dedicated to compensating NIA parties for DCP contributions. Additionally, CAWCD can, in coordination with the U.S., enter into compensated conservation agreements with M&I subcontractors or Indian contractors to use these resources for mitigation payments. In return, these parties must abide by certain conditions, including reducing water deliveries so that additional water will be available in the NIA pool.
 - Additionally, this agreement compensates GRIC based on how much mitigation resources it receives in given year. In 2020-2022, this compensation will be 60-80% of *mitigation resources* received, while in 2023-2025, this compensation will 40-80% of *mitigation resources* received.
 - Through 2025, any other NIA party can agree to accept compensation in exchange for agreeing to reduce its CAP water order. This compensation starts at \$240 per AF and increases by 3% annually.
 - During Tier 1-2b shortages, CAWCD must use Salt River Project (SRP) exchange water available as *mitigation water* before deploying any CAP ICS.
- CAWCD will deliver *mitigation water* to six irrigation districts⁶ to offset reduced water deliveries as part of Arizona's DCP contributions in 2020-2022. This *mitigation water* can primarily come from CAP water that cities, industries, and water utilities stored at the irrigation districts' groundwater savings facilities,⁷ ICS, and available CAP water. The amount delivered will be based on the tier shortage. In 2023-2026, these irrigation districts will rely on pumped groundwater. The following sources will compensate these districts for rehabilitating wells and infrastructure to withdraw and deliver groundwater:

⁶ These irrigation districts are the Central Arizona Irrigation and Drainage District, the Harquahala Valley Irrigation District, Hohokam Irrigation and Drainage District, Maricopa Stanfield Irrigation and Drainage District, Queen Creek Irrigation and Drainage District, and the San Carlos Irrigation and Drainage District, which are in Maricopa and Pinal Counties.

⁷ Groundwater savings facilities deliver renewable water supplies, such as CAP water, to recipients in active management areas or irrigation non-expansion areas. In return for this "in-lieu" water, the recipient agrees to reduce groundwater usage. These facilities are primarily located on farmlands.

- The Legislature provided \$9 million to these districts through the Temporary Groundwater and Irrigation Efficiency Projects Fund in FY 2019. These appropriations were exempt from lapsing ([Laws 2019, Ch. 1, §§ 16 and 20](#)). Additionally, the Legislature appropriated \$20 million to this fund in FY 2020 as part of the budget ([Laws 2019, Chapter 263, §156](#));⁸
- CAWCD will commit \$5 million for a groundwater infrastructure and efficiency program;
- ADWR will apply to the U.S. Department of Agriculture's Natural Resource Conservation Service for \$25 million;
- The irrigation districts will contribute \$5 million.
- Additionally, during Tier 1-2b shortages in 2020-2022, once CAWCD has made its required deployments of *mitigation resources* to the NIA pool, it can provide remaining *mitigation water* to these irrigation districts, subject to certain terms and conditions.

Finally, the Legislature appropriated \$2 million to the Augmentation and Conservation Assistance Fund in FY 2020 for grants to fund groundwater conservation projects in active management areas ([Laws 2019, Chapter 1, §16](#)).

Offsetting Reductions

This agreement is also designed to offset future reductions in Colorado River diversions by conserving additional water in Lake Mead as ICS. The total amount of ICS stored in Lake Mead by the end of 2026 will—when combined with water retained through conservation efforts—be at least as large as the 400,000 AF of CAP ICS that the CAWCD Board had reserved at the time this agreement was signed. Offsets will be provided from the following sources:

- The Colorado River Indian Tribes (CRIT) will make 150,000 AF available to permanently leave in Lake Mead through conservation and reductions in use. CRIT will be compensated based on each AF conserved which could total up to \$38 million. The Legislature provided \$30 million in compensation through the Arizona System Conservation Fund, which compensates those with Colorado River entitlements who agree to forgo deliveries or diversions of this water ([Laws 2019, Chapter 1, §§ 1 and 21](#)). Non-governmental organizations, such as the Environmental Defense Fund, have committed to providing the remaining funding.
- GRIC will create 200,000 AF of different types of ICS in 2019-2021 that will remain in Lake Mead until the end of 2026. The Arizona Water Banking Authority (AWBA) and Bureau will compensate GRIC as follows:
 - AWBA will pay GRIC for 50,000 AF of the ICS it creates in 2019-2020 to accrue 45,000 AF of firming credits to meet future firming obligations.⁹ GRIC will be compensated for the ICS created at \$240 per AF, with any unpaid portion increasing annually through 2029.
 - GRIC will conserve 100,000 AF in Lake Mead starting on December 31, 2020 to create ICS. The Bureau will pay GRIC for the ICS created at a rate of \$240 per AF with any unpaid portion increasing annually through 2026.

⁸ Additionally, the Legislature appropriated \$11 million to this fund in FY 2019 when it ratified Arizona's DCP agreement, which included \$9 million that was exempt from lapsing ([Laws 2019, Chapter 1, §§ 16 and 20](#)).

⁹ As part of the Arizona Water Settlements Act, which settled GRIC's water claims, Arizona agreed to firm 15,000 AF of CAP water that was re-allocated to GRIC and establish a firming program for future Indian water rights settlements. This water must be firmed through 2108 during times of shortages and delivered in the same manner as municipal and industrial priority deliveries. The AWBA, in cooperation with ADWR and CAWCD, acts as the State's agent in fulfilling these firming obligations.

- SRP will provide up to 10,000 AF annually for CAWCD customers in 2021-2025 for a total of 50,000 AF. In return, CAWCD will provide SRP with water from sources such as the CAP, ICS, or other waters.

Other Agreements

In addition to these state-level agreements, there are other agreements between municipalities, water districts, water utilities, mines and state agencies that involve long-term storage credit¹⁰ exchanges and water storage arrangements.

Related Agreement with Mexico

Under a 1944 water treaty, the United States guaranteed 1.5 MAF of annual deliveries from the Colorado River to Mexico. Additionally, this treaty directed the International Boundary and Water Commission (IBWC) to implement this treaty and remedy any disputes that arose. This binational entity can resolve these disputes and address new developments by adopting minutes, which are supplemental agreements to this treaty.

Minute 323, which the IBWC adopted in September 2017, established long-term guidelines for Colorado River water deliveries to Mexico. Specifically, this minute authorizes the U.S. and Mexico to store certain amounts of water in Lake Mead based on its elevation. This water can be recovered once conditions improve. It also reduces water deliveries to Mexico based on Lake Mead's projected elevation. For example, when Lake Mead's elevation is above 1,050 feet and at or below 1,050 feet, Mexico's Colorado River water deliveries will be reduced by 50,000 AF. Finally, Minute 323 expands Mexico's ability to reserve up to 250,000 AF of its allocation in U.S. reservoirs for emergency storage, a revolving account, or deferring water deliveries due to conservation projects or new water source projects.

Implementing DCP

Since the DCP's enactment, the Colorado River system has been in a state of shortage. In August 2019, the Bureau projected Lake Mead's January 1, 2020 elevation to be 1,089.4 feet. Because this elevation was below the 1,090-foot threshold established in the Lower Basin Drought Contingency Plan, Arizona was at a Tier 0 shortage in 2020, which required a 192,000 AF reduction in its Colorado River deliveries (see Table 1, page 4 for an explanation of tier shortages). This amount was nearly equivalent to the amount of Colorado River water that CAWCD had been voluntarily leaving in Lake Mead since 2015 through its [Lake Mead Conservation Program](#). Arizona remained in a Tier 0 shortage in 2021.

The following year's study however had more dire projections which necessitated further actions to stabilize Lake Mead. The August 2021 study projected Lake Mead's January 1, 2022 elevation to be at 1065.85 feet, which placed Arizona in a Tier 1 shortage for 2022. The state's Colorado River deliveries have been curtailed by 512,000 AF, which represents about 18% of the state's annual apportionment. Additionally, the study's minimum probable projection showed that Lake Mead's elevation would fall below 1,030 feet in July 2023. This projection triggered a requirement in the Lower Basin Drought Contingency Operations Agreement that the Lower Basin states consult with the Secretary on further actions to ensure that Lake Mead's elevation does not decline below 1,020 feet.¹¹ Those discussions culminated with a memorandum of understanding

¹⁰ Long-term storage credits (LTSCs) are earned when permitted facilities in active management areas (AMA) store water underground. This stored water is generally eligible for credits if it was stored underground for at least one year, cannot be reasonably used directly (with certain exceptions for the Pinal AMA related to Arizona's drought contingency plan), and would not have been naturally recharged within the AMA. A holder can use LTSCs in several ways, including pledging these credits towards an assured water supply.

¹¹ At 1,020 feet mean sea level, Lake Mead would contain less than 6 MAF of water. If the reservoir experienced one more dry year at that elevation, the Bureau would no longer be able to deliver water to Arizona, California and Mexico.

that was signed in December 2021 to implement the "500+ Plan". Under this plan, the Lower Basin states will annually save an additional 500,000 AF in Lake Mead in 2022 and 2023. Arizona will contribute about 223,000 AF to this effort: 193,000 AF will come from CAP water users and the remaining 30,000 AF will come from on-river users. To implement the 500+ Plan's drought responses, those involved pledged \$200 million: \$100 million came from the federal government and the remainder came from entities in the Lower Basin states, including ADWR (\$40 million) and CAWCD (\$20 million).

The prolonged drought and low runoff conditions have also sparked additional measures to stabilize Lake Powell. In April 2022, the Bureau notified Lower Basin states that additional actions would be needed to reduce the risk of Lake Powell dropping to an elevation of 3,490 feet. At that level, the equipment used to generate electricity within Glen Canyon Dam could be damaged and the drinking water infrastructure for Page, Arizona and the LeChee Chapter of the Navajo Nation will not function. Under an announced plan, the Bureau will hold back about 480,000 AF of water in Lake Powell that would normally be delivered downstream. However, the Bureau will calculate Lake Mead's elevation as if that water had been delivered downstream when determining drought tiers. Additionally, as part of a separate plan developed by the Upper Basin states and the Bureau, about 500,000 AF of water will be released from the Flaming Gorge Reservoir on the Wyoming-Utah border between May 1, 2022 and April 30, 2023 to shore up Lake Powell's elevation.

Future Negotiations on Managing the Colorado River

The DCP will remain in effect through December 31, 2026, which coincides with the sunset of the 2007 Interim Guidelines. By that point, the Upper Basin states, Lower Basin states, and Mexico will need to negotiate and implement a longer-term plan for managing the Colorado River. To assist in these negotiations, two groups have been formed:

- The Arizona Reconsultation Committee (ARC), which consists of those who served on the Lower Basin Drought Contingency Plan Steering Committee and will help develop Arizona's position on future negotiations.
- The Modeling and Analysis Work Group, which develops models and other technical information on the Arizona's Colorado River supply for the benefit of the ARC.

Both groups were involved in creating the 500+ Plan and efforts to shore up Lake Powell and will continue to play a role in representing Arizona in negotiations on managing the Colorado River's waters.

Distracted Driving – Device Restrictions

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Wireless Communication/Stand-Alone Electronic Devices

[Laws 2019, Chapter 112](#) established the statewide prohibition of use of a wireless communication/stand-alone electronic device while operating a motor vehicle.

Pursuant to [A.R.S. § 28-914](#), a person is prohibited from operating a motor vehicle on a street or highway if the person does either of the following:

- 1) Physically holds or supports with any part of the person's body a portable wireless communication device or a stand-alone electronic device; or
- 2) Writes, sends or reads any text-based communications, including a text message, an instant message, an email, or internet data on a portable wireless communication device or a stand-alone electronic device.

A person convicted of a violation is subject to a civil penalty as follows:

- 1) For an initial violation, at least \$75 but not more than \$149.
- 2) For a second or subsequent violation, at least \$150 but not more than \$250.

A person who causes serious injury or death by a violation is additionally subject to:

- 1) A class 1 misdemeanor (6 months/\$2500 plus surcharges);
- 2) Mandatory attendance and successful completion of traffic survival school;
- 3) Reporting of a conviction to ADOT;
- 4) Suspension of driving privileges, if ordered by the court;
- 5) Performing community restitution, if ordered by the court; and
- 6) Paying restitution of no more than \$100,000, if ordered by the court.

Outlined exemptions to the device prohibition are as follows:

- 1) Use of a device while stopped or parked;
- 2) Use of a device with an earpiece, headphone device or wrist-worn device to conduct voice-based communications;
- 3) Use of voice-based communications through a device to direct the writing, sending, reading or other communicating of any text-based communication;
- 4) Use in a hands-free manner for navigation; GPS or obtaining motor vehicle or driving information;
- 5) Use of a device, including one accessible through an interface that is embedded in a motor vehicle, that allows communication without the use of the driver's hands, except to activate or deactivate a device function;
- 6) Use of a device to report illegal activity or summon emergency help;
- 7) Use of a device that was permanently or temporarily affixed to the motor vehicle to relay information during the operator's occupational duties between the operator and either a dispatcher or a digital network or software application service;
- 8) Use of a device by an operator of an authorized emergency, law enforcement or probation vehicle while acting in an official capacity;
- 9) Use of a radio frequency device by an operator who is licensed by the federal communications commission;
- 10) Use of a two-way radio or private land mobile radio system by an operator while in the performance and scope of the operator's work-related duties and who is operating a fleet vehicle or who possesses a commercial driver license.

Portable wireless communication device is defined as:

- 1) including a cellular telephone, a portable telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, a global positioning system receiver or a substantially similar portable wireless device that is used to initiate or receive communication, information or data.
- 2) not including a radio, citizen band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription-based emergency communication device, prescribed medical device, amateur or ham radio device or in-vehicle security, navigation or remote diagnostic system.

Stand-alone electronic device is defined as a portable device other than a portable wireless communication device that stores audio or video data files to be retrieved on demand by a user.

Image Display Devices

Pursuant to [A.R.S. § 28-963](#), a person, while driving a motor vehicle on a public roadway or an off-highway vehicle trail, is prohibited from:

- 1) Viewing a broadcast television image or visual image from an image display device within the motor vehicle unless the visual image is a static background image or imagery in support of mapping services or applications;
- 2) Watching a video or movie on a portable wireless communication device or stand-alone electronic device other than watching data related to the navigation of the motor vehicle, except that a person may view data related to the navigation of the motor vehicle, vehicle information or information related to driving a motor vehicle; and
- 3) Recording or broadcasting a video on a portable wireless communication device or stand-alone electronic device, except that the person may use the devices for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle.

A person is prohibited from operating a motor vehicle with an image display device that is visible to a driver seated in a normal driving position when the vehicle is in motion.

A violation is subject to a civil traffic violation of no more than \$250 ([A.R.S. §§ 28-121, 28-1598](#)).

Novice Drivers – Class G License/Instructional Permit Holders

[Laws 2017, Chapter 209](#) established communication device restrictions for novice drivers who hold a class G license or an instructional permit.

For the first six months that a class G licensee holds their license or until the licensee's 18th birthday, the licensee is prohibited from driving a motor vehicle while using a wireless communication device for any reason except:

- 1) During an emergency in which stopping the motor vehicle is impossible or will create an additional emergency or safety hazard; or
- 2) When using an audible turn-by-turn navigation system under specified conditions.

If a licensee is found responsible for using a wireless communication device while driving, the penalties are:

- 1) For the first violation, a maximum civil penalty of \$75 and an extension of the restriction for 30 days;
- 2) For the second violation, a maximum civil penalty of \$100 and an extension of the restriction for 60 days; and
- 3) For the third or subsequent violation, a maximum civil penalty of \$100 and the suspension of the licensee's driving privileges for 30 days ([A.R.S. § 28-3174](#)).

An instructional permit holder is prohibited from driving a motor vehicle while using a wireless communication device for any reason except during an emergency in which stopping the motor vehicle is impossible or will create an additional emergency or safety hazard.

A peace officer is prohibited from stopping or issuing a citation for a violation, unless the peace officer has reasonable cause to believe there is another alleged motor vehicle violation ([A.R.S. § 28-3154](#)).

A violation is subject to a civil traffic violation of no more than \$250 ([A.R.S. §§ 28-121, 28-1598](#)).

Arizona Department of Revenue Overview

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The Department of Revenue (DOR) was established in 1973 to administer Arizona's tax laws. The statutory authority of DOR is outlined in Arizona Revised Statutes [Title 42 \(Taxation\)](#) and [Title 43 \(Taxation of Income\)](#).

The primary tax laws that fall under the purview of DOR are:

- 1) Income (individual and corporate);
- 2) Transaction privilege (commonly referred to as sales tax) and use;
- 3) Luxury;
- 4) Withholding;
- 5) Property (including the oversight of county assessors in the administration of locally-assessed property taxes);
- 6) Estate;
- 7) Fiduciary;
- 8) Bingo;
- 9) Severance; and
- 10) Unclaimed property.

The Director of DOR is a member of the Governor's cabinet. Reporting to the Director is the chief deputy director and deputy director, who assist the director in the day-to-day operations of the department.

The mission of DOR is Serving Taxpayers!

DOR is organized into four divisions which are integrated to achieve the major objectives of efficient tax collection and processing, timely enforcement of tax laws and accurate valuation of property.

- 1) **Taxpayer Services** – Provides services for customers with inquiries and requests on various tax matters, including:
 - o Disclosure Office; Hearing Office; Inquiries and Requests; Problem Resolution Office; Property Tax; Taxpayer, Executive and Legislative Issues; Tobacco Tax Unit; and Unclaimed Property;
- 2) **Processing** – Provides timely and accurate processing of all tax returns and payments; Includes Process Administration and Tax Data Management;
- 3) **Education and Compliance** – Provides education and outreach services to taxpayers, promotes voluntary compliance and collects delinquent returns and tax liabilities; Includes Audit; Collections; and, Education & Outreach;
- 4) **Support** – Provides support services, including:
 - o The Budget Office; Communications; Continuous Improvement; Economic Research and Analysis; Employee Training and Development Unit; E-Services Unit; Facilities Management; Financial Services; Human Resources; Information Technology; Internal Audit; Legislative Liaison and Procurement Office.

DOR's [FY2022 Strategic Plan](#) contains an overview of their main goals and their resource assumptions through FY2026. The main goals are to:

- 1) Optimize employee culture;
- 2) Maximize agency effectiveness and efficiency;

- 3) Enhanced customer experience; and
- 4) Legislative agility.

The resource assumptions for FY2022 are 895 full-time equivalent positions and total agency funds of \$83,787,400.

DOT's [FY2021 Annual Report](#) provides valuable information on their mission, vision, goals, strategies, an overview of what is done, highlights and several tables that contain revenue collections, distributions, exemptions, deductions and credits. Major highlights for FY2021 are:

- 1) \$24.0B in gross revenue collections, which consisted of \$14.2B from transaction privilege tax, \$8.3B from individual income and withholding tax, \$.9B from corporate income tax and \$.6B from other taxes;
- 2) 6.8M tax returns were processed;
- 3) \$2.20M in individual income tax refunds were issued in an average of 12 calendar days;
- 4) \$820.1M in net enforcement revenue was generated; and
- 5) \$48M in unclaimed property was returned.

DOT's [FY2021 Preliminary Tax Expenditure Report](#) provides an understanding of the impacts associated with the existing tax expenditures. *Tax expenditures* are defined as any tax provision in state law which exempts, in whole or in part, any persons, income, goods, services or property from the impact of established taxes including deductions, subtractions, exclusions, exemptions, allowances and credits. This report provides a list of tax expenditures and, when possible, details their approximate costs. Major highlights for FY2021 were tax expenditures of:

- 1) \$127,266,928 in corporate income tax;
- 2) \$713,934,115 in individual income tax; and
- 3) \$19,842,175,898 in transaction privilege and use tax.

Overall, the report indicates that there were \$21,823,289,587 in tax expenditures for FY2021.

DOT's [2021 Individual and Corporate Income Tax Credit Report](#) provides a detailed analysis of the individual income tax credits claimed for tax years 2012 through 2020 and tax years 2011 through 2019 for corporate tax credits. Major highlights of the total tax credits used or refunded are:

- 1) \$713,934,115 to individuals for TY2019; and
- 2) \$127,266,448 to corporations for TY2019.

Some of the most used or refunded tax credits are:

- 1) Taxes paid to other states or countries;
- 2) Dependent tax credit;
- 3) Increased excise taxes paid;
- 4) Contributions to qualified charitable organizations or to qualified foster care charitable organizations;
- 5) Contributions and fees to public schools;
- 6) Contributions to private school tuition organizations for the original tax credit;
- 7) Contributions to private school tuition organizations that exceed the original credit limit (switcher credit); and
- 8) Research and development tax credit.

Several other DOT reports are available at [DOT Reports, Statistics and Legal Research](#).

Earned Release Credits

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Earned Release Credits in Arizona

Earned release credits refer to the days an inmate can accumulate to earn an earlier release date. An inmate released on the earned release date begins a term of community supervision as imposed by the courts or term of probation, as opposed to finishing the inmate's sentence in prison. While inmates can receive credit, the term of imprisonment the court imposed is not reduced ([A.R.S. § 41-1604.07](#)).

The Director (Director) of the State Department of Corrections (ADC) is required to maintain an earned release credit eligibility classification system. Each inmate committed must be classified according to this system. Inmates in the eligible class can accumulate earned release credits. An inmate could be in a non-eligible class, for example, for not following ADC rules or participating in improvement programs. The Director can establish as many non-eligibility classes as the Director deems fit, but must have one eligible class that allows eligible inmates to earn credits ([A.R.S. § 41-1604.06](#)).

Upon entry to ADC, each inmate will be put in a non-eligible class. Inmates can be reclassified into an eligible class based on certain factors, such as the following: 1) work performance; 2) compliance with ADC rules; 3) progress in any education, training or treatment programs; and 4) performance of any assignments of confidence or trust. Inmates will be made known of the rules for earning eligibility and will be reclassified based on those rules ([A.R.S. § 41-1604.06](#)).

Credit Denominations

Earned release credits are denominated according to the following:

- 1) three days for every seven days served if all the following apply:
 - a) the inmate was sentenced for the possession or use of marijuana, a dangerous drug or a narcotic drug or possession of drug paraphernalia;
 - b) the inmate successfully completed a drug treatment program or other major self-improvements through ADC during the inmate's imprisonment term; and
 - c) the inmate has not previously been convicted of a violent or aggravated felony ([A.R.S. § 13-706](#)); or
- 2) one day for every six days served if the above does not apply to an inmate, as long as the inmate is in an eligible class ([A.R.S. § 41-1604.07](#)).

Loss of Credit

A credit-eligible inmate is entitled to a hearing before the inmate is reclassified to a non-eligible class. At least five days before the hearing, the inmate must be given a written statement notifying the inmate of the alleged violation. The Director designates a person, or group of people, to hold these hearings. An inmate may ask for a review of the decision by making a written request to the Director ([A.R.S. § 41-1604.06](#)).

If an inmate is reclassified, the Director may forfeit all of the inmate's release credits. The Director, however, has the discretion to restore the credits and must keep an account of credits earned by each inmate ([A.R.S. § 41-1604.07](#)).

An inmate will lose five credits for each instance that the inmate tests positive for prohibited drugs while incarcerated. An inmate will also lose five credits if the inmate is found by a court or during a disciplinary hearing to have done the following:

- 1) brought a claim without substantial justification;
- 2) expanded or delayed a proceeding;
- 3) falsely testified; or

- 4) submitted a claim meant to harass the party it is filed against ([A.R.S. § 41-1604.07](#)).

Release

Upon reaching the earned release date or sentence expiration date, an inmate will be released to begin the term of community supervision imposed by the court or term of probation if the court has waived community supervision.

If the court waives the community supervision term, ADC must notify the designated probation department of the scheduled release, and the Director must issue the inmate an absolute discharge on the inmate's earned release credit date. An inmate released on an earned release credit date to serve a probation term is not under the control of ADC when community supervision has been waived, and ADC is not required to provide parole services ([A.R.S. § 41-1604.07](#)).

ADC is required to establish conditions of community supervision. The Director may impose conditions such as requiring inmates to enroll in drug treatment programs, counseling, or community restitution work or apply for health care benefits ([A.R.S. § 41-1604.07](#)).

Except in certain instances, an inmate will not be released into a term of community supervision until the following occurs, whichever is first:

- 1) the inmate achieves an eighth-grade functional literacy level;
- 2) the inmate is released into a transition program and enrolled in a program that prepares the inmate to achieve functional literacy; or
- 3) the inmate serves the full term of imprisonment imposed by the court ([A.R.S. § 41-1604.07](#)).

An inmate must sign and agree to abide by the supervision conditions to be released on the earned release credit date. If the inmate decides not to sign, the inmate will be released into the community supervision term on the sentence expiration date. If the inmate still does not agree to abide by the conditions of the release, the inmate will not be released and will have to serve the community supervision term in prison ([A.R.S. § 41-1604.07](#)).

Parole Eligible Inmates

Inmates eligible for parole who have committed felonies before January 1, 1994, also can earn release credits. Inmates in class one of parole eligibility ([A.R.S. § 41-1604.09](#)) are allowed the following release credits, dependent on the inmate's sentencing: 1) one day for every two days served, or 2) one day for every three days served ([A.R.S. § 41-1604.10](#)).



Statute requires the Superintendent of Public Instruction (SPI) to prescribe a method to identify the primary or home language for all new students who enroll in a school district or charter school. Currently, home language surveys are provided by the Office of English Language Acquisition Services (OELAS) within the Arizona Department of Education (ADE) that are to be used by local education agencies (LEAs). The English language proficiency of all students with a primary or home language other than English must be assessed through the [Arizona English Language Learner Assessment \(AZELLA\)](#), as prescribed by the SPI. If a student is determined to not be English proficient, the student must be classified as an English Language Learner (ELL) and enrolled in an ELL program. ([A.R.S. § 15-756](#))

ELL students are assessed annually to determine their progress in becoming English proficient. After a student is classified as English proficient, the student is transferred to a mainstream English language classroom. The student is retested annually for the following two years to monitor whether the student remains proficient ([A.R.S. § 15-756.05](#)).

OELAS

OELAS exists within ADE and is responsible for overseeing school districts and charter schools with ELLs. Its statutory duties include:

- 1) Developing guidelines for monitoring school districts to ensure compliance with all federal and state laws regarding ELLs;
- 2) In consultation with county school superintendents, developing regional programs to enhance training for teachers and administrators;
- 3) Publishing ELL policy guidelines for school districts that include a list of relevant rules, regulations and statutes relating to ELL programs; and
- 4) Providing technical assistance to school districts to implement structured English immersion (SEI) programs.

As directed by the SPI, OELAS must annually monitor at least 12 school districts or charter schools with the highest number of ELLs, at least 10 school districts or charter schools that are not included in the highest number of ELLs and at least 10 school districts or charter schools that are not required to provide instruction for ELLs for a majority of their grade levels. Additionally, OELAS must monitor all 50 school districts and charter schools in Arizona with the highest number of ELLs at least once every four years.

The monitoring must be on-site and include classroom observations, curriculum reviews, faculty interviews, student records, a review of ELL programs and an analysis of programmatic effectiveness that includes prior year data to analyze the progress of ELLs ([A.R.S. § 15-756.08](#)).

ELL Models

Arizona's ELL programs are based off of [Laws 2006, Chapter 4](#), which established the nine-member ELL Task Force to develop and adopt research based models of SEI. [Laws 2013, Chapter 20](#) repealed the ELL Task Force and passed its statutory responsibilities to the State Board of Education (SBE).

SEI models are required to take into consideration at least the size of the school, the location of the school, the grade levels at the school, the number of ELLs and the percentage of ELLs. Prior to 2019, SBE was required to develop models for first-year ELLs that included a minimum of four hours of English development per day. [Laws 2019, Chapter 3](#) reformed the English instructional

hours requirements to the current law which requires SBE to adopt and approve models that include a minimum amount of English language development as follows:

- 1) 120 minutes per day, 600 minutes per week or 360 hours per school year for pupils in kindergarten programs and the 1st-5th grades; and
- 2) 100 minutes per day, 500 minutes per week or 300 hours per school year for pupils in the 6th-12th grades ([A.R.S. § 15-756.01](#)).

Each school district governing board and charter school governing body must select and implement on a school-by-school basis one or more models of SEI or alternative English instruction approved by SBE. If a school district or charter school wants to implement an ELL program that is not based on a preapproved model, they must submit the proposed ELL program to SBE for approval. SBE is required to establish a framework, based on input from experienced educators, to evaluate the models that are submitted by school districts and charter schools. The framework must ensure that the adopted or approved models meet all the following criteria:

- 1) Provide coherent instruction that align with Arizona's English language proficiency standards;
- 2) Include oral and written language instruction, including structured opportunities to develop verbal, written and comprehension skills;
- 3) Include access to complex language content through grade-level textbooks with appropriate supports; and
- 4) Include parental engagement strategies ([A.R.S. § 15-756.01](#)).

SBE is required to review the research-based models of SEI and the alternative English instruction models annually and delete from, add to or modify the existing models. When adopting, approving or modifying ELL programs, SBE must review and consider the information and data obtained as a result of OELAS monitoring of ELL programs.

Budget Requests and Funding

The Arizona Structured English Immersion Fund (SEI Fund) was established by [Laws 2006, Chapter 4](#) and was renamed to the Arizona English Language Learner Fund (ELL Fund) by [Laws 2019, Chapter 3](#). The ELL Fund receives an annual appropriation from the General Fund and ADE distributes the monies to school districts and charter schools based on amounts that they request.

SBE provides a form for school districts and charter schools to determine their budget request amount. The maximum amount of the budget request must be the incremental costs of the SEI model selected offset by the portion of desegregation monies levied as determined by the percentage of ELLs, if any, and the ELL support level weight. Incremental costs are the costs that are associated with a SEI program or an alternative English instruction program that are in addition to the normal costs of conducting programs for English proficient students. If a school district or charter school qualifies to submit a budget request based on the form prescribed by SBE, they must submit an ELL budget request for the amount determined on the form.

In addition to the ELL support level weight, ADE must distribute monies from the ELL Fund to school districts and charter schools in the amount specified in the budget request. Each school district and charter school is required to establish their own local-level ELL Fund to receive monies distributed from the ELL Fund. Monies in local-level ELL Funds must be spent only to provide instruction to ELLs and to supplement existing programs for ELLs ([A.R.S. § 15-756.04](#)).

Reporting

OELAS must require each school district and charter school to annually submit a report to ADE that includes the following information identified by grade level and by school:

- 1) The total number of students who are classified as ELLs;
- 2) The number of students who are classified as ELLs for the first time;

- 3) The number of ELLs who achieved English proficiency in the past academic year and who have been reclassified as English proficient;
- 4) The number of students who are enrolled in each type of language acquisition program offered by the school; and
- 5) If requested by ADE, the test data used to determine English proficiency ([A.R.S. § 15-756.10](#)).

Additionally, OELAS is required to provide an annual report on ELL programs to SBE, the Auditor General, the Governor, the President of the Senate and the Speaker of the House of Representatives and present a summary of the report at a public meeting of SBE. The report must include the aforementioned information submitted by school districts and charter schools and the following:

- 1) Detailed descriptions of the adopted and approved models, the number of public schools implementing each model and the number of students enrolled in each model;
- 2) The length of time that students are classified as ELLs;
- 3) The academic performance on the AZELLA for the two years after ELLs achieve English proficiency; and
- 4) A summary of information relating to the success of schools at achieving English proficiency for ELLs ([A.R.S. § 15-756.07](#)).

Federal Aid to State Governments

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During the Covid-19 pandemic, the federal government passed several pieces of legislation which provided aid to individuals (in the form of economic impact payments and unemployment insurance), businesses (such as the Paycheck Protection Program), health care institutions and state and local governments.

According to the [Joint Legislative Budget Committee](#) (JLBC), the state of Arizona is estimated to receive \$19.4 billion from the federal government, with local governments receiving an additional \$4.0 billion. This is on top of the approximately \$54.6 billion in direct federal aid to Arizona individuals and businesses.

In order to summarize the federal aid to state governments, this chapter will begin by providing the context of the major pieces of Covid-19 relief legislation. Next, provisions from the major federal legislation that support state governments in the health and education areas will be examined. Finally, discretionary funding sources provided by the federal government will be explained.

Phases of Covid-19 Legislation

To date, there have been six major pieces of federal legislation that have appropriated large sums of money in response to the pandemic. These six laws are outlined in the table below:

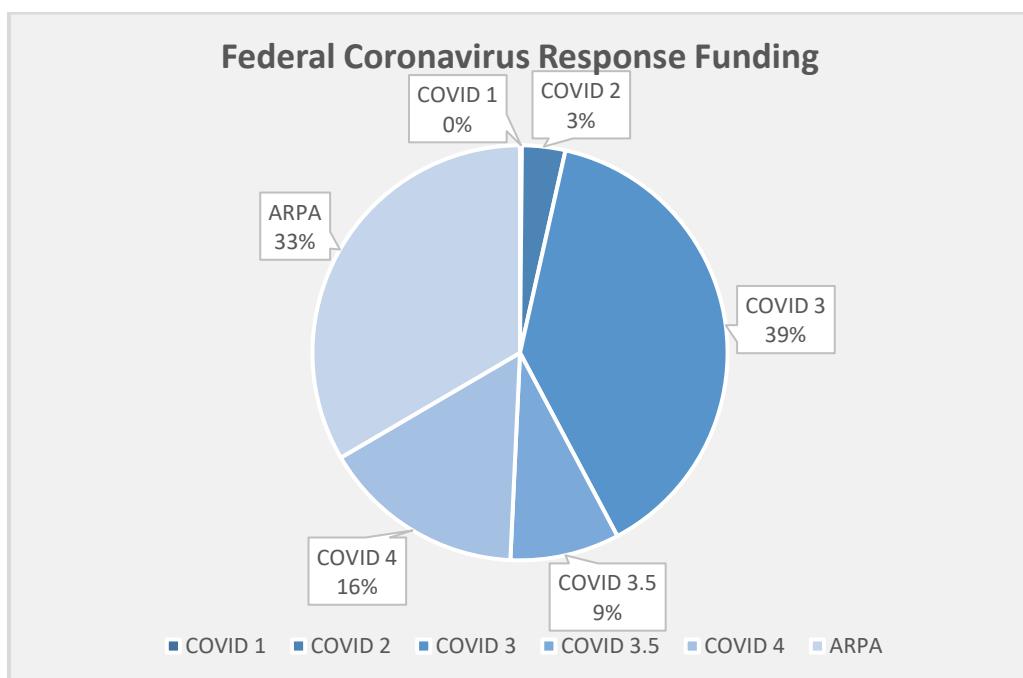
Phase	Name	Month	Amount of Aid
1	Coronavirus Preparedness and Response Supplemental Appropriations Act Public Law 116-123	March 2020	\$8.3 billion
2	Families First Coronavirus Response Act (FFCRA) Public Law 116-127	March 2020	\$192 billion
3	Coronavirus Aid, Relief and Economic Security Act (CARES Act) Public Law 116-136	March 2020	\$2.2 trillion
3.5	Paycheck Protection Program and Health Care Enhancement Act (PPPHCEA) Public Law 116-139	April 2020	\$484 billion
4	Consolidated Appropriations Act 2021 (CAA) Public Law 116-260	December 2020	\$900 billion*
5	American Rescue Plan Act (ARPA) Public Law 117-7	March 2021	\$1.9 trillion

Source: [JLBC](#)

* - The CAA totaled approximately \$2.3 trillion, however only \$900 billion was designated for Covid-19 relief aid with the remaining \$1.4 trillion funding the federal government.

As seen by the initial phases (COVID 1, COVID 2 and COVID 3), the initial response was a significantly increasing amount of aid. While the first couple of phases focused primarily on support to health care institutions and the procurement of personal protective equipment, later phases of relief focused more heavily on the economic impact of the pandemic to individuals, businesses and state and local governments.

The below chart, *Federal Coronavirus Response Funding*, shows the relative size of the six bills compared to the total of approximately \$5.6 trillion in Covid-19 relief expenditures by the federal government.



Healthcare Funding

Enhanced Medicaid Match

The FFCRA (COVID 2) included a temporary increase of 6.2% to each state's Federal Medical Assistance Percentage (FMAP), which offsets the state share of Medicaid and certain child welfare services costs. The increased FMAP had a retroactive effective date of January 1, 2020 and continues throughout the federally-declared public health emergency (PHE). The PHE has been extended quarterly by the federal Secretary of Health and Human Services, most recently [on April 12, 2022](#). Under the terms of the enhanced FMAP, this means the state will continue to benefit from the increased federal contribution to the Arizona Health Care Cost Containment System (AHCCCS) until at least September 30, 2022.

In exchange for the 6.2% increase to the FMAP, state Medicaid systems (like AHCCCS) had to agree to a continuous coverage requirement. This prohibits the state from disenrolling beneficiaries from AHCCCS throughout the duration of the PHE. As a result, AHCCCS has seen an increase in beneficiaries from 2.0 million in [2020](#) to nearly 2.4 million in [2022](#).

JLBC has determined that, for fiscal years 2020, 2021 and the first half of 2022, the total savings from the enhanced federal match (including the caseload growth) is \$907 million. The recent extension of the PHE into FY 2023 will save the state General Fund additional money.

Department of Health Services

Another significant source of federal healthcare support to Arizona came from grants to the Department of Health Services (DHS) from the federal Centers for Disease Control and Prevention (CDC). The CDC grants totaled approximately \$1.1 billion to Arizona's DHS across the various Covid-19 relief laws, and were dedicated for areas such as testing, contact tracing, vaccine distribution and public health workforce.

Education Funding

K-12 Education

The largest source of K-12 funding from federal pandemic legislation was in the form of the [Elementary and Secondary School Emergency Relief \(ESSER\) Fund](#). Administered by the Arizona Department of Education (ADE), the ESSER Fund received allocations under the CARES Act (COVID 3), the CAA (COVID 4) and ARPA.

[ESSER I](#) (which came from the CARES Act) allocated \$264 million to Arizona K-12 schools through ADE. 90% of that amount was required to be designated for local education agencies (LEAs) based on their share of Title I-A funds received in Federal Fiscal Year 2020. ESSER I funds are available to LEAs through September 30, 2022.

[ESSER II](#) (which was funded through the CAA) saw Arizona receive an allocation of approximately \$1.1 billion. In addition to the distribution to LEAs (based on Title I-A allocations), ADE used its reserve funding to guarantee a minimum ESSER value of \$150,000 to \$200,000 to each non-profit local education agency. ESSER II funds are available to be spent by schools through September 30, 2023.

More recently, ARPA authorized [ESSER III](#) at an approximately \$2.5 billion funding amount for Arizona. New to ESSER III is the requirement that 20% of a LEA's allocation to be put towards reducing learning loss, a new local "maintenance of equity" requirement and must publish a safe return to in-person instruction plan. ESSER III monies must be obligated by September 30, 2024.

The largest recipients of ESSER funding have been Tucson Unified (\$267 million), Mesa Unified (\$246 million) and Phoenix Union High School (\$173 million) districts.

Higher Education

Similar to the three batches of funding for the ESSER Fund, the CARES Act, CAA and ARPA also gave the states funds in the form of the [Higher Education Emergency Relief Fund](#) (HEERF). HEERF monies were provided by the Secretary of Education to both public and private institutions of higher education.

In Arizona, HEERF I (from the CARES Act) provided \$122 million to public universities, \$85 million to community colleges and about \$100 million to private institutions. Of this total \$307 million, about \$144 million was required to go to grants for eligible students.

HEERF II (from the CAA) provided a total of \$387 million to Arizona public institutions and \$66 million to private institutions. Nearly all of the private institutions' share was required to go to student grants, while about \$95 million from the public universities and community colleges went directly to students.

HEERF III (from ARPA) allocated \$855 million between public universities and community colleges in Arizona and \$39 million to private institutions. Similarly to HEERF II, the private institutions were required to pass nearly its entire share on to student grants while about 38% of the public share was earmarked for student grants.

The largest beneficiaries across the three tranches of HEERF monies were the Maricopa Community College system (\$325 million), Arizona State University (\$178 million) and the University of Arizona (\$84 million).

Discretionary Funding

The above sections focused on specific policy areas (healthcare and education) that, for the most part, had less flexibility in terms of how the monies could be spent. This final section will focus on discretionary federal funding where the Governor has broad authority to spend aid from the federal government to the state of Arizona.

For an overview of state funds that gave the Governor discretionary authority to spend the monies (such as the legislatively-appropriated Crisis Contingency and Safety Net Fund or the donations-based Arizona Coronavirus Relief Fund), see this summary from [JLBC](#).

Coronavirus Relief Fund

The CARES Act (COVID 3) established a \$150 billion [Coronavirus Relief Fund](#). Of that national appropriation, \$2.82 billion was allocated for [Arizona state and local governments](#). The state received \$1.86 billion, with the remaining \$960 million [divided](#) between Maricopa County, the City of Phoenix, Pima County, the City of Tucson and the City of Mesa.

According to federal rules, the Coronavirus Relief Fund can only be used for expenses which:

- 1) Are incurred due to the Covid-19 public health emergency;
- 2) Were not accounted for in the most recent state budget approved as the date of enactment of the CARES Act; and
- 3) Were incurred between March 1, 2020 and December 31, 2021.

Among the largest allocations from the Coronavirus Relief Fund made by Governor Ducey were \$441 million for local governments who did not qualify for direct federal aid, \$416 million for state agency public health and public safety expenses and \$370 million for the Enrollment Stabilization Grant Program with school districts and charter schools. Another notable use of the Coronavirus Relief Fund was \$51 million for the Unemployment Insurance Trust Fund.

Governor's Emergency Education Relief Fund

In addition to the Coronavirus Relief Fund, the CARES Act also established a discretionary funding source focused on education, known as the [Governor's Emergency Education Relief Fund](#) (GEERF). GEERF totals \$100 million (\$69 million of which came from the CARES Act and \$31 million from CAA).

Of the amount allocated to GEERF, Governor Ducey [allocated](#) \$40 million towards "bridging the digital divide" by enhancing broadband infrastructure (along I-17 and I-19), \$20 million for Acceleration Academy Grants and \$6 million for the scholarships as part of the Arizona Teachers Academy. He has also [designated \\$26.5 million](#) of GEERF for summer 2021 learning programs. The deadline for the Governor to spend GEERF monies is September 30, 2023.

Coronavirus State Fiscal Recovery Fund

By far the largest discretionary allocation of federal aid to states came from ARPA. The [Coronavirus State and Local Fiscal Recovery Funds](#) (SLFRF) program totaled \$350 billion nationwide and must be expended by December 31, 2024. Of that amount, the state of Arizona [was allocated](#) \$4.2 billion while local governments received \$2.6 billion.

SLFRF has broader uses than either the Coronavirus Relief Fund or GEERF. Specifically, according to ARPA and [federal Treasury Department rules](#), the monies in SLFRF may be used to replace lost public sector revenue, respond to public health and negative economic impacts of

the pandemic, provide premium pay for essential workers and invest in specific (water, sewer and broadband) infrastructure.

A part of the FY 2022 Budget Procedures budget reconciliation bill ([Laws 2021, Chapter 405](#) § 38) required the Executive branch to disclose discretionary allocations made under ARPA. That law, however, was struck down by the Arizona Supreme Court in [*Arizona School Boards Association v. State of Arizona*](#). The Governor's office has continued to voluntarily make disclosures, which has allowed JLBC to compile a [list](#) of the Governor's allocations of ARPA SLFRF monies.

According to JLBC's report, Governor Ducey has approximately \$1 billion between a deposit to the Unemployment Insurance Trust Fund and his [Return-to-Work bonus program](#). Other notable uses include over \$300 million for education initiatives, \$158 million for broadband within the Department of Transportation and \$95 million for premium pay ranging from 20% to 10% at selected agencies. As of March 25, 2022, \$1.9 billion was allocated from Arizona's ARPA SLFRF monies.

Coronavirus Capital Project Fund

A smaller second discretionary funding source contained within ARPA was the [Coronavirus Capital Projects Fund](#). The state of Arizona received \$190 million from this fund, out of the nationwide \$10 billion appropriation. Unlike the other discretionary programs, the Capital Projects Fund does not expire.

Governor Ducey [has allocated](#) \$100 million to the Arizona Commerce Authority for broadband development grants.



Independent Redistricting Commission ([AZ Const. Art. 4, Part 2, § 1](#))

The Arizona Constitution establishes, by February 28 of each year that ends in one, the Independent Redistricting Commission (Commission) for the purpose of redistricting congressional and state legislative districts.

Membership

The Commission consists of five members total of which no more than two of these members may be of the same political party. The first four members that are appointed cannot have more than two members that reside in the same county.

Each member of the Commission must be a voter who is registered in Arizona and has been continuously registered with the same political party or registered as unaffiliated for three or more years immediately before appointment. The members of the Commission must be committed to applying the provisions of the Constitution related to redistricting in an independent, honest and impartial fashion and to upholding public confidence in the integrity of the process of redistricting.

The Arizona Constitution prohibits the members of the Commission, within three years prior to appointment, from having been elected to, appointed to, or a candidate for any other public office or have served as an officer of a political party, a registered paid lobbyist or as an officer of a candidate's campaign committee. During the term of office and for three years after, a commissioner is ineligible for Arizona public office or for registration as a paid lobbyist.

Appointments

Candidates for appointment to the Commission are nominated by the commission on appellate court appointments. By January 8 in years ending in one, the commission on appellate court appointments or its designee must establish a pool of people who are qualified for appointment and willing to serve on the Commission. This pool of candidates consists of 25 total nominees. Ten of the nominees are to come from each of the largest two political parties in Arizona based on party registration and the other five are people who are not registered with either of the two largest political parties.

By January 31 of each year ending in one, the highest ranking officer elected by the Arizona House of Representatives will make an appointment to the Commission from the pool of nominees. After this person, one appointment from the pool will be made by each of the following:

- Minority party leader of the Arizona House of Representatives;
- Highest ranking officer elected by the Arizona Senate; and
- Minority party leader of the Arizona Senate.

Each of the above officials has a seven-day period to make an appointment and if the official fails to make an appointment within the specified time period, that person will forfeit the appointment privilege.

Vacancies

If there is a vacancy remaining as of March 1 of a year ending in one from the appointments by the officers of the Legislature, the position must be filled from the pool of nominees by the commission on appellate court appointments or its designee. Political balance and fairness must be the goal of the appointing body.

The four Commission members select, by majority vote, a fifth member who is not registered with any party already represented on the Commission and who will serve as the chair. If the four

commissioners do not appoint the fifth member within 15 days, the commission on appellate court appointments or its designee must appoint a fifth member from the nomination pool. The five commissioners, by majority vote, must then select one of their members to serve as vice-chair.

The Governor may remove a member of the Commission with the concurrence of two-thirds of the Senate. The reasons for removal may include gross misconduct in office, substantial neglect of duty, or inability to discharge the duties of the office. Before removal, the commissioner must have been served notice and provided an opportunity for a response.

The commission on appellate court appointments or its designee, within 30 days, must nominate a pool of three candidates if a commissioner or chair does not complete the term of office for any reason. The nominees must be of the same political party or status as the member who vacated the office at the time of that person's appointment. Other than the appointment for the chair, an appointment must be made by the current holder of the office designated to make the original appointment. The appointment of a new chair is made by remaining commissioners. The commission on appellate court appointments or its designee must make the appointment for a vacancy if the appointment for a replacement commissioner or chair is not made within 14 days after the presentation of the nominees. The newly appointed commissioner will serve the remainder of the original term.

Quorum

The Commission must conduct business in meetings that are open to the public when a quorum is present. These meetings must be noticed with 48 or more hours provided. Three commissioners constitute a quorum, including the chair or vice-chair. For any official action to take place, three or more affirmative votes are required.

Duties of the Commission

The Commission is tasked with establishing congressional and legislative districts. The beginning of the mapping process for congressional and legislative districts is the creation of equal population districts in a grid-like pattern across the state. Adjustments will then be made as necessary to accommodate the following goals:

- Districts must comply with the United States Voting Rights Act and the United States Constitution;
- Congressional and state legislative districts must have equal population to the extent practicable;
- To the extent practicable, districts must be geographically contiguous and compact;
- District boundaries, to the extent practicable, must respect communities of interest;
- District lines must use visible geographic features, city, town and county boundaries, and undivided census tracts, to the extent practicable; and
- Competitive districts, to the extent practicable, should be favored where to do so would not create a significant detriment to the other goals listed above.

Mapping Process

In the initial phase of the mapping process, voting history and party registration must be excluded, but may be used to test for compliance with the above listed goals. The residences of candidates or incumbents must not be identified or considered.

For at least 30 days, comments shall be taken once the Commission advertises a draft map of the congressional districts and a draft map of the legislative districts. The House or Senate or both may act during this time period by memorial or minority report to make recommendations to the Commission. These recommendations must be considered by the Commission. After the comment period, the Commission will then establish the final district boundaries. The Commission must certify to the Secretary of State the establishment of the congressional and legislative districts.

Appropriations

The Arizona Department of Administration (ADOA) must make adequate office space available for the Commission. For the work of the Commission, the Arizona Treasurer must make \$6 million available and any unused monies will be returned to the general fund. After the year 2001, in years ending in eight or nine, ADOA or its successor must submit a recommendation to the Legislature for an appropriation for adequate expenses for redistricting and adequate office space for the Commission's operation. The Legislature, by majority vote, then shall make the necessary appropriations.

With fiscal oversight from ADOA, the Commission has procurement and contracting authority. Additionally, the Commission has the authority to hire staff and consultants for the purposes of fulfilling the required duties, including legal representation.

Legal Representation

The Commission shall have standing in legal actions in relation to the redistricting plan and the adequacy of the resources that are provided for the operation of the Commission. The sole authority for determining whether the Arizona Attorney General or counsel hired or selected by the Commission to represent the people of Arizona in the legal defense of a redistricting plan lies with the Commission.

Miscellaneous

Pursuant to law, the Commission members are eligible for reimbursement of expenses. The member's residence is deemed as the post of duty for purposes of expense reimbursements.

The employees of ADOA or its successor are prohibited from influencing or attempting to influence the Commission's decisions on district-mapping.

The duties of each commissioner expire upon the appointment of the first member of the next Commission. The Commission is prohibited from meeting or incurring any expenses after completion of the redistricting plan except to revise districts if required by court decisions, if the number of congressional or legislative districts is changed, or if litigation or any government approval of the plan is pending.



A.R.S. Title 41, Chapter 7, Article 10.1

Membership of JLAC ([A.R.S. § 41-1279](#))

The Joint Legislative Audit Committee consists of 10 members total. All 10 members are appointed by the President of the Senate and the Speaker of the House of Representatives (five from each chamber). These members are appointed based on their understanding and interest in legislative audit oversight functions. Not more than three appointees from each chamber can be of the same political party. Additionally, the President of the Senate and the Speaker of the House of Representatives serve as ex officio members of JLAC.

The President of the Senate and the Speaker of the House of Representatives each appoint one of their members to serve as chair of their respective delegation. The chair of JLAC serves for the term of each Legislature. The chairmanship alternates between the chair of the Senate delegation and the chair of the House delegation.

Members of JLAC are eligible for reimbursement in the same manner that a member of the Legislature is eligible for reimbursement for attending a standing committee meeting. JLAC is required to meet at least quarterly and upon the call of the chair of the committee.

Powers and duties ([A.R.S. § 41-1279](#))

JLAC is tasked with overseeing all audit functions of the Legislature and state agencies. The committee oversees such items as sunset, performance, special and financial audits in addition to special research requests. JLAC is also required to prepare and introduce legislation that results from the audit report findings.

The Joint Legislative Audit Committee appoints an auditor general subject to approval by a concurrent resolution of the Legislature. JLAC directs the appointed auditor general to perform sunset, performance, special and financial audits and investigations.

Statute stipulates that JLAC has the power of legislative subpoena and the requirement to perform all functions required and outlined by statute relating to sunset reviews of state agencies. JLAC also has the duty to require state agencies to comply with the findings and directions of the committee regarding sunset, performance, special and financial audits.



Introduction

Like many western states, only a small percentage of Arizona is made up of private lands. In fact, according to the Arizona State Land Department, less than 18% of the state consisted of privately-owned lands in 2019. The remainder consisted of federal, tribal and State Trust Lands, which largely exempt from state and local property taxation. This research brief reviews the status of these lands in Arizona, what activities can occur on these lands, and how the State is compensated or otherwise financially benefits from these lands.

Overview of federal lands

The following five federal agencies own and administer over 42% of lands in Arizona. Because these lands are generally open for use by members of the public, they are referred to as *public lands*:

- *Bureau of Land Management (BLM)* is an agency within the Department of Interior that manages about 12.2 million acres in Arizona as of September 30, 2021. The BLM manages most rangelands and some national monuments on its lands, as well as administering federal subsurface mineral estates. The BLM is charged with achieving "multiple use and sustained yield" of natural resources on its lands ([43 U.S.C. § 1701\(a\)\(7\)](#)). This goal is considered a dual mandate: managing lands and their resources to best meet the needs of the American people for a sustained period of time while conserving natural, historical and cultural resources ([43 U.S.C. § 1702](#)). The BLM must develop long-term land use and resource management plans that provide a framework for land management, uses and protection through a stakeholder process that involves public participation ([43 U.S.C. § 1712](#)).
- *U.S. Forest Service (USFS)* is an agency within the U.S. Department of Agriculture that conducts forestry research, assists nonfederal forest owners and manages the National Forest System. This system consists of national forests, purchase units, national grasslands, land utilization project areas, experimental forest or range areas, other land areas, water areas and interests in lands either administered by this agency or designated for administration through this agency. As of September 30, 2021, the National Forest System in Arizona consists of six national forests that total almost 11.2 million acres within the State.¹ The USFS manages these lands for outdoor recreation, range, timber, watershed and wildlife and fish purposes ([16 U.S.C. § 528](#)). Similar to BLM lands, the renewable surface resources in these forests must be managed for multiple use and sustained yield ([16 U.S.C. §§ 529 and 531](#)). Also like the BLM, the USFS must engage in long-term land use and resource management plans that provide a framework for land management, uses and protection. These plans are developed with public participation ([16 U.S.C. § 1604](#)).
- *National Parks Service (NPS)* is a bureau within the Department of Interior that manages national parks and certain national monuments, heritage areas, national trails, historic sites and parks, national recreation areas and national memorials in the United States—all of which are collectively referred to as *units* ([54 U.S.C. §§ 100101 and 100102\(6\)](#)).

¹ The six national forests in Arizona are the Apache-Sitgreaves National Forest, Coconino National Forest, Coronado National Forest, Kaibab National Forest, Prescott National Forest, and Tonto National Forest. However, there are over 600,000 acres of land that are located within the National Forest System's boundaries that are not federally owned or administered by the USFS.

There are 24 such units in Arizona, including 3 national parks and 13 national monuments. Congress has directed the NPS to conserve the scenery, natural and historic objects and wildlife so that they can be enjoyed by future generations ([54 U.S.C. §§ 100101](#)). As of September 30, 2021, the NPS owns and manages almost 2.7 million acres in Arizona.

- *Fish and Wildlife Service (FWS)* is another bureau within the Department of Interior responsible for managing fish and wildlife for the American public. The FWS manages the National Wildlife Refuge System, which are federal lands and waters set aside for wildlife conservation, including restoring native fish, wildlife, and plant populations and their habitats ([16 U.S.C. § 668dd](#)). Arizona is home to nine such refuges, which are in Cochise, La Paz, Mohave, Pima and Yuma counties. Additionally, the FWS administers the National Fish Hatchery System, which maintains healthy and self-sustaining populations of fish and other aquatic species ([16 U.S.C. § 760aa et seq.](#)). Currently, there are two hatcheries in Arizona: the Alchesay-Williams Creek National Fish Hatchery Complex in Navajo County and the Willow Beach National Fish Hatchery in Mohave County. In total, the FWS owns and manages over 1.5 million acres in Arizona as of September 30, 2021.
- *Department of Defense (DOD)* coordinates and supervises all government agencies and functions related to the U.S. Armed Forces ([10 U.S.C. § 111 et seq.](#)). For example, Arizona is home to several military bases, such as Luke Air Force Base, Davis-Monthan Air Force Base, Fort Huachuca and the Yuma Proving Ground. As of September 30, 2020, the DOD owns almost 437,000 acres in 53 sites throughout Arizona. When combined with government-owned lands, public lands, public lands withdrawn for military use and licensed and permitted lands, the total size of these sites exceeds 3 million acres.² In addition to these lands, the U.S. Army Corps of Engineers (COE) operates several flood control projects in Arizona, such as the Painted Rock Dam on the Gila River. This agency's lands total almost 7,200 acres as of September 30, 2021.

These federal agencies have established regulations that limit certain activities on these lands and will often require someone to obtain a permit before conducting these activities. For example:

- *Recreation*—Hiking, biking, canoeing and other recreational activities are allowed on federal lands except those owned by the DOD. Special use permits are required for commercial, competitive and organized group recreation. Additionally, special recreation permits may be required to protect natural or cultural resources, limit the number of people involved in certain activities, or to provide specialized services. For example, the USFS can require these permits for rock climbing and off-highway vehicle riding on its lands.
- *Taking wildlife*—Hunting, fishing and trapping are allowed on some federal lands, such as designated areas of a national wildlife refuge and hatchery if they are determined to be compatible with the established purpose of that refuge and the mission of the refuge system. Although these activities occur on federal lands, an appropriate state license is required and applicable state laws apply.

² U.S. Department of Defense, Office of the Deputy Assistant Secretary of Defense for Infrastructure. (2020). *Base Structure Report as of September 30, 2020*. Accessed from https://www.acq.osd.mil/eie/BSI/BSI_Library.html on May 14, 2022. DoD-19 and DoD-32.

- *Grazing*—The USFS, BLM and NPS issue permits to individuals and organizations to graze livestock in certain areas. These agencies must follow processes established in the National Environment Policy Act (NEPA) when issuing and reissuing these permits. Most grazing permits require an Environmental Assessment (see textbox for more information). Additionally, the FWS may enter into cooperative agreements with farmers and ranchers to grow crops and allow cattle to graze in national wildlife refuges.
- *Timber harvesting*—The USFS and BLM are the primary federal agencies that sell timber on federal land. Timber sales on federal lands must be consistent with the purpose of those lands. Specifically, these agencies' land use and resource management plans must explain where timber harvesting can occur and include measures for sustainable timber harvest levels, which in turn guide timber harvests and sales.
- *Mining*—Some federal lands are open to mineral extraction and development. Starting in 1976, all national parks were closed to new mining claims except in instances when Congress authorizes these activities. However, mining can occur if claims were already in place when those parks were established ([P.L. 94-429](#)). The FWS only allows mineral extraction and development in national wildlife refuges if there is a valid existing right to engage in these activities. By contrast, the BLM manages mineral resources on its lands and USFS lands, while the USFS manages surface resources on its lands. Therefore, these agencies cooperate on processing leases, sales, and permits for mineral-related activities. Under federal law, minerals on these lands are generally classified as either:
 - *Leasable minerals*, which include energy producing substances (coal, oil, gas and geothermal steam) and certain non-energy producing substances such as sodium, potassium and sulfur.
 - *Locatable materials*, commonly referred to as "hardrock materials" and include metallic minerals such as gold, nonmetallic minerals like gemstones, and certain uncommon variety minerals.
 - *Saleable materials*, which are materials that are widespread and of low value such as sand and gravel.
- *Renewable energy facilities*—Wind turbines and solar panels can be installed on some federal lands. Specifically, these projects can be constructed on BLM-managed public lands through rights-of-way applications. As part of the application process, the proposed development must be consistent with BLM land use planning ([43 U.S.C. § 1761](#) and [43 C.F.R. part 2800](#)). Similarly, permits to construct and operate these facilities on USFS lands requires an analysis that conforms to NEPA. Additionally, the FWS requires a special use permit for projects occurring on refuge lands, which can involve the NEPA process. The FWS may also recommend that energy developers apply for an incidental

NEPA Process

NEPA directs federal agencies that are planning projects with environmental impacts to consider those impacts, information the public of those impacts, and allow the public to be involved in the planning and analysis related to actions that impact the environment. For proposed actions that have the potential to significantly affect the quality of the human environment, an Environmental Impact Statement is required. Those actions that do not have the potential to impact the quality of the human environment, can be prepared using an Environmental Assessment, which is less detailed and rigorous document to prepare.

Source: Environmental Protection Agency. (n.d.) "National Environmental Policy Act Review Process". Accessed from <https://www.epa.gov/nepa/national-environmental-policy-act-review-process> on May 14, 2022.

take permit if the proposed project is likely to impact a federally endangered or threatened species.

Tribal Lands

Arizona is home to 22 federally recognized Native American tribes whose lands make up over 27% of the state (19.8 million acres). These lands primarily consist of reservations, which are areas set aside as permanent homelands for one or more tribes under treaties or other agreements with the United States, executive orders or federal laws or administrative actions. Some reservations are remnants of a tribe's original lands while others were created to resettle native peoples who were forcibly relocated. Reservations are usually exempt from state jurisdiction, including taxation, except when Congress specifically authorizes jurisdiction. Reservations consist of various lands including:³

- *Tribal trust lands*—The federal government holds the title to these lands in trust on behalf of a federally recognized tribe ([25 C.F.R. § 151.2\(d\)](#)). However, the tribe holds the beneficial interest in this land, which means that it has the right to receive the economic benefits from this land, such as the income from that property or some or all the proceeds of sale for that property. Tribal governments manage these lands with oversight from the Bureau of Indian Affairs (BIA). Trust lands cannot be sold or conveyed without the consent of the federal government.
- *Individual trust allotments*—The Dawes Act of 1887 divided reservation land into parcels (or allotments) that were assigned to families and individuals (P.L. 49-105). Generally, these allotments were passed down to heirs. When the Indian Reorganization Act of 1934 abolished this system (P.L. 78-383), surplus allotments returned to tribes and the remaining allotments stayed with individuals but were held in trust by the U.S. government. As with tribal trust lands, the tribe is the beneficiary of the land.
- *Fee simple lands*—A person (including a non-Indian) or entity such as a tribe holds the title to the land and exercises complete control over those lands. The owner can sell, lease or develop the land.⁴ Land is subject to tribal jurisdiction when either the tribe owns the land or the land is within a reservation's boundaries.
- *Restricted fee lands*—Fee lands in which the title is held by an Indian or tribe and can only be alienated or encumbered with approval from the Secretary of Interior ([25 C.F.R. § 151.2\(e\)](#)).

Tribal lands are not considered public lands because they exist primarily for use by the tribe and its members.

Each type of land has specific limitations regarding property taxation and usage. For example, according to the [Internal Revenue Service](#), tribal trust lands and individual trust allotments are usually not subject to state and local property taxes, but these taxes can be assessed on fee simple lands. Additionally, tribal trust lands usually have more limitations on land use compared to fee simple lands. However, while federal laws generally address using different types of tribal lands for activities such as mining, there are also specific laws that govern land usage on certain reservations. For example, one federal law outlines how leases for grazing, farming and other purposes except mining can be carried out on the San Xavier and Salt River Pima-Maricopa Indian Reservations ([25 U.S.C. § 416](#)).

³ Because these lands are established through a combination of different federal laws and regulations, the citations are made to the best available source of information.

⁴ The Indian Reorganization Act of 1934 allows the Secretary to convert fee land to trust land. However, there were no federal regulations to govern this process until 1980. Subsequent updates to these regulations as well as administrative guidance memorandums have changed the requirements for tribes to place lands that are within or outside of existing reservations into trust (see [25 C.F.R. part 151](#)).

Compensation to States for Federal and Tribal Lands

The federal government, through the U.S. Department of Interior, compensates local governments⁵ for lower property tax revenue from nontaxable federal lands within their jurisdictions through payments in lieu of taxes (PILT) ([31 U.S.C. § 6902](#)). Congress first authorized these payments in the Payments in Lieu of Taxes Act of 1976 ([P.L. 94-565](#)). PILT are made annually for tax-exempt federal lands administered by the BLM, NPS, USFS, federal water projects and national wildlife refuge system lands that are withdrawn from the public domain. Additionally, certain military lands also qualify for PILT, such as those involving the Army Corps of Engineers ([31 U.S.C. § 6901\(1\)](#)). These payments are made in addition to other federal payments to states for activities such as oil and gas leasing, livestock grazing, and timber harvesting.

Federal law establishes formulas that determine the amount of PILT to each local government. The primary formula is based on the following factors and is adjusted for inflation:

- Population of the local government;
- Payments for eligible lands under other federal agency payment programs in the previous year;
- Whether the state has passed a law requiring payments to be passed through to other local government entities such as school districts; and
- Amount of federal land within the affected local government's boundaries ([31 U.S.C. § 6903](#)).⁶

Although this formula authorizes a certain amount for PILT, congressional appropriations have not always kept pace. Prior to FY 2007, Congress could choose whether to fully fund authorized PILT. Since then, Congress has gone back and forth on fully funding PILT. For example, this formula authorized over \$421.7 million in PILT in federal fiscal year 2013⁷ but, because of the sequestration measures in the Budget Control Act of 2011, only about \$399.8 million (94.8%) was paid to local governments. However, Congress has fully funded PILT since FY 2018. Arizona counties received approximately \$40.2 million in PILT in FY 2021.⁸

Local governments can generally use PILT for any governmental purpose. However, states can enact laws that require PILT payments to be reallocated and redistributed, in whole or in part, to other smaller units of general purpose government that are within the boundaries of the larger unit of general local government, provide general governmental services, and contain federal lands within their boundaries ([31 U.S.C. § 6907](#)). Arizona has not enacted any such laws.

In addition, the federal government provides financial assistance to local public schools through Impact Aid. This funding is intended to compensate a district with less property tax revenue from the presence of tax-exempt federal property within its boundaries. Impact Aid also compensates districts that experience increased expenditures due to enrollment of federally connected children, such as those who live on tribal lands, military bases or low-rent public housing ([20 U.S.C. § 7701 et seq.](#)). Most Impact Aid is considered general funds that schools can use for any expense.

⁵ Local governments include counties, townships, boroughs or cities (outside of Alaska) that are a subdivision of the state and independent of any other unit of general local government ([31 U.S.C. § 6901\(2\)\(A\)](#)).

⁶ In addition to this formula, federal law establishes separate PILT formulas for federal lands that were acquired as additions to the National Park System or National Forest Wilderness Areas after December 30, 1970 and federal lands in the Redwood National Park or lands acquired in the Lake Tahoe Basin near Lake Tahoe under the Act of December 23, 1980 (31 U.S.C. §§ [6904](#) and [6905](#)).

⁷ The federal fiscal year begins on October 1 and ends on September 30. By contrast, Arizona's fiscal year spans from July 1 to June 30.

⁸ Office of Secretary, *Fiscal Year 2021 Payments in Lieu of Taxes*, (Washington, D.C.: U.S. Department of Interior), 15, <https://www.doi.gov/sites/doi.gov/files/2021-national-summary-pilt-508.pdf>.

According to the Arizona Department of Education, nearly \$219 million in Impact Aid was provided to 66 school districts and charter schools in Arizona in FY 2019.

Beyond PILT and Impact Aid, several federal agencies also share revenues with state and local governments. For example:

- The FWS shares a certain portion of revenues from wildlife refuges, waterfowl production areas, wildlife ranges and other agency lands with counties where these areas are located ([16 U.S.C. § 715s](#)).
- Some revenues from mining activities on federal lands are shared with state and local governments. For example, states generally receive 50% of revenues collected—including rents, bonuses and royalties—minus 2% for administrative costs for leasable mineral activities ([30 U.S.C. §§ 191](#)).
- The USFS shares 25% of its gross receipts from timber sales, mineral leases, recreation, grazing and other revenue generating activities with states to use on roads and schools in counties where national forest lands are located ([16 U.S.C. §§ 499 and 500](#)).

State Trust Lands

State Trust Lands consist of lands that Congress granted to Arizona when it became a territory (and later a state) for multiple beneficiaries. When Arizona was established as a territory in 1863, Congress granted sections 16 and 36 of each township (see textbox for definition of these terms) to benefit *common schools*, which generally educated students in kindergarten and grades 1-12. The Arizona-New Mexico Enabling Act of 1910 (Enabling Act), which authorized Arizona to become a state, added these sections and two additional sections of each township to be held in trust for *common schools* (Enabling Act, Section 24). These lands total about 9.4 million acres (see Table 1). Besides *common schools*, Congress recognized other public beneficiaries and set aside an additional 1.5 million acres of federal lands for them in the Enabling Act and other federal legislation. These lands, which must be held in trust, totaled over 10.9 million acres at statehood (see Table 1). In FY 2021, there were 9.2 million acres of State Trust Lands in Arizona, which cover about 13% of the state.

Township—A unit of surveyed land that is 6 miles on each side for a total area of 36 square miles.

Section—A unit surveyed land that is one square mile or 640 acres. There are 36 sections in a township.

Source: U.S. Public Land Survey System.

Table 1: State Trust Land beneficiaries

Beneficiary	Acreage
K-12 schools	9,400,000
Arizona Board of Regents for distribution to the universities	860,000
Arizona School for the Deaf and Blind	100,000
Arizona State Hospital	100,000
Arizona Department of Corrections	150,000
State legislative, executive, and judicial buildings	100,000
Arizona Pioneers' Home	200,000
Arizona Department of Juvenile Corrections	50,000
<i>Total</i>	<i>10,960,000</i>

Source: JLBC staff interpretation of the Enabling Act.

lands.⁹ Leases cover grazing, agriculture, commercial uses and siting homes; mining-related activities; and exploring, developing and producing oil, gas and other hydrocarbons. Any sale or contract for timber or other natural products from these lands must follow a similar process ([Constitution of Arizona, Article 10, § 3](#)). The State Treasurer deposits monies from the sale, leases or contracts associated with these lands into the corresponding permanent fund for each beneficiary ([Constitution of Arizona, Article 10, § 7\(A\)](#)).

The State Board of Investment serves as a trustee for these permanent funds and directs the State Treasurer to invest these fund monies in interest-bearing securities consistent with requirements in the Constitution of Arizona. The earnings, interest, dividends and realized capital gains and losses from these investments are credited to these funds. Additionally, the State Board of Investment had determined how much will be annually distributed from these funds to the beneficiaries. However, voters recently approved two ballot propositions that established additional requirements for distributions to the Permanent State School Fund, which benefits *common schools* by offsetting state General Fund costs for Basic State Aid¹⁰ (Constitution of Arizona, [Article 10, § 7](#) and [Article 11, § 8](#)):

- Proposition 118 (2012) directed State Board of Investment to annually distribute 2.5% of this fund's average monthly market values for the preceding five years.
- Proposition 123 (2016) increased this required distribution to 6.9% in FYs 2016-2025 and specified that this increase must be directed to Basic State Aid (including inflation adjustments) for school districts and charter schools. After FY 2025, this distribution will revert to 2.5%. This proposition also provided a one-time retroactive payment of \$259,266,200 to this fund in FY 2016.¹¹

Because State Trust Lands exist primarily to generate revenue for these designated public beneficiaries, they are not considered public lands. Specifically, the State Land Department administers these lands to obtain their highest and best use and maximize their designated beneficiaries' financial beneficiaries. However, leases cover a wide range of activities such as agriculture ([R12-5-702](#)), grazing ([R12-5-705](#)), mining ([R12-5-1801 et seq.](#)), and commercial uses ([R12-5-703](#)). Additionally, the State Land Department permits recreation on most State Trust Lands except for those leased for agricultural, mining, commercial, or military purposes.

⁹ However, State Trust Lands cannot be sold for less than \$3 per acre, or \$25 per acre if these lands have or will be used in irrigation reclamation projects ([Constitution of Arizona, Article 10, § 5](#)).

¹⁰ Basic State Aid consists of financial payments from the state General Fund to school districts and charter schools. Statute establishes a formula to determine the amount of these payments, which generally considers factors such as the number of and type of students attending, the experience of teachers, the costs of transporting students, and property tax revenues (if any) of that school district or charter school ([A.R.S. § 15-901 et seq.](#)).

¹¹ Proposition 123 has undergone considerable litigation. In a September 2019 decision, a federal district court judge found that it violated the Enabling Act because the State did not receive congressional approval before increasing this distribution. However, because Congress ratified this change in 2018, which was after voters had approved this proposition, the judge indicated that the matter was moot. However, the judge barred Governor Ducey or any future governor from implementing additional changes to this distribution formula without first receiving congressional approval ([Pierce v. Ducey](#), No. CV-16-01538-PHX-NVW, 2019 WL 4750138 (D. Ariz. Sept. 30, 2019)). However, a three-judge panel of the 9th Circuit Court of Appeals vacated and remanded the district court's ruling. The panel instructed the district court to dismiss the case because the plaintiff, Michael Pierce, could not show that he had an injury in fact caused by Proposition 123 and therefore lacked standing and since Congress had consented to the changes to the distribution formula the action was rendered moot. It also rescinded the prohibition against implementing additional changes to this formula without congressional approval because that would be based on the possibility of future events that may not occur ([Pierce v. Ducey](#), No. 19-17071, 2020 WL 4187300 (9th Cir. July 21, 2020)).

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Licensing Board Overview

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Many health professions and occupations within Arizona are licensed and regulated by licensing boards. These boards are charged with protecting the health, welfare and safety of Arizona citizens by licensing and regulating health professions, investigating complaints and taking actions when licensees do not meet standards of practice and providing information to the public (i.e., a licensee's disciplinary record). Health statutes are contained within [Title 32](#) and [Title 36](#) of the Arizona Revised Statutes. Title 32 contains the laws related to professions and occupations. Statutes for the licensing boards in this title are divided into the following three general categories and occasionally contain supplemental articles when necessary:

- 1) Article 1 - establishes the regulatory board, outlines the composition of its governing board and details the board's duties and responsibilities;
- 2) Article 2 – specifies the training and education requirements to achieve licensure. (See pertinent chapter number for specific licensing requirements); and
- 3) Article 3 - outlines disciplinary and non-disciplinary actions a board can take to enforce standards of practice. Disciplinary actions may include a requirement for continuing education, letter of censure, license suspension or revocation.

Title 36 contains the laws related to public health and safety. The Board of Examiners of Nursing Care Institutions and Assisted Living Facility Managers are placed in Title 36 as they are classified as a health care institution. The regulation of midwifery, hearing aid dispensers, audiologists and speech language pathologists is sectioned under the statutes for the Arizona Department of Health Services, which is also found in Title 36.

Board members of medical licensing boards are appointed by the Governor and confirmed by the Arizona State Senate. Additionally, medical licensing boards are referred to as 90/10 boards, meaning 90% of their revenue goes into the board's fund and 10% is deposited into the state General Fund.

The table below lists the health professions that are certified and licensed pursuant to statute, which is often subject to review by the House Health and Human Services Committee. Each profession in the table is hyperlinked to the board website to allow for quicker access.

Regulation of Health Professions	
Title 32, Chapter	Profession
7	Podiatry
8	Chiropractic
11	Dentistry
13	Medicine and Surgery
14	Naturopathic Medicine
15	Nursing
15.1	Dispensing Opticians
16	Optometry
17	Osteopathic Physicians and Surgeons
18	Pharmacy

19	Physical Therapy
19.1	Psychology
25	Physician Assistants
28	Radiologic Technologists
29	Homeopathic Physicians
33	Behavioral Health Professionals
34	Occupational Therapy
35	Respiratory Care
39	Acupuncture
41	Athletic Trainers
42	Massage Therapy
Title 36	
Chpt. 4, Art. 6	Nursing Care Institution Administrators and Certified Assisted Living Facility Managers
Chpt. 6, Art. 7	Midwifery
Chpt. 17	Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists

Podiatry

[Laws 1941, Chapter 112](#) created the State Board of Chiropody Examiners which was renamed the [Arizona State Board of Podiatry Examiners](#) (SBPE) in 1964. SBPE consists of five members appointed for a term of five years. Before appointment, a prospective member must submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-802](#)). SBPE's sunset date is July 1, 2029 ([A.R.S. § 41-3029.14](#)).

Doctors of Podiatric Medicine specialize in the diagnosis and treatment of the foot, ankle and lower leg ([A.R.S. § 32-801](#)). Beginning September 1, 2022, all applicants pursuing a podiatrists license must possess a valid fingerprint clearance card ([A.R.S. § 32-823](#)).

The SBPE evaluates the professional competency of podiatrists seeking to be licensed in Arizona. Further, SBPE promotes continued competency and fitness by investigating complaints against podiatrists, holding hearings, monitoring the activities of licensees and enforcing the standards of practice for the profession as set forth by law.

Chiropractic

[Laws 1921, Chapter 118](#) established the [Arizona State Board of Chiropractic Examiners](#) (SBCE) which consists of five members appointed for a term of five years. Before appointment, a prospective board member must submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-901](#)). [Laws 2022, Chapter 51](#) extended SBCE's sunset date to July 1, 2030.

Chiropractors conduct *therapeutic procedures* which applies clinical skills and services, including therapeutic exercise, therapeutic activities, manual therapy techniques, massage and structural supports, to improve a patient's neuromusculoskeletal condition ([A.R.S. § 32-900](#)).

The SBCE licenses approximately 2,500 chiropractors to practice in Arizona. Statute requires practitioners to obtain a state and federal criminal records check ([A.R.S. § 32-921](#)). The SBCE accepts and investigates complaints against licensed and unlicensed individuals.

Dentistry

The [Arizona State Board of Dental Examiners \(BODEX\)](#) was created in 1913 and consists of 11 members who serve a term of four years. Before appointment, each prospective member must submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-1203](#)). The board's sunset date is July 1, 2023 ([A.R.S. § 41-3023.07](#)).

Statute requires each applicant for licensure to obtain a valid fingerprint clearance card ([A.R.S. § 32-1232](#)). BODEX examines and licenses individuals who provide dental services. They also accept complaints against licensed and unlicensed individuals, investigates allegations and takes disciplinary actions for violations of the law. BODEX oversees approximately 10,500 licensees including dentists, dental therapists, dental hygienists, dental assistants and denturists practicing in this state and serves all Arizona citizens who receive dental services. In addition, BODEX permits mobile dental facilities and portable dental units.

The *practice of dentistry* is the diagnosis, surgical or nonsurgical treatment and performance of related adjunctive procedures for any disease, pain, deformity, deficiency, injury or physical condition of the human tooth or teeth, alveolar process, gums, lips, cheek, jaws, oral cavity and associated tissues, including the removal of stains, discolorations and concretions ([A.R.S. § 32-1202](#)). The Legislature expanded the dentistry practice to include the administering of botulinum toxin (BOTOX) and dermal fillers for therapeutic and cosmetic purposes ([Laws 2022, Chapter 7](#)). Statutory definitions of all dental professionals can be found in ([A.R.S. § 32-1201](#)).

Medicine and Surgery

The [Arizona Medical Board](#) (AMB) was originally established by the Arizona State Legislature in 1913. The AMB consists of 12 members appointed to serve a term of five years. There is no statutory requirement for board members to submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-1402](#)). AMB's sunset date is July 1, 2027 ([A.R.S. § 41-3027.04](#)).

The *practice of medicine* in part, means the diagnosis, treatment or correction of any and all human diseases, injuries, ailments, infirmities or deformities, physical or mental, by any means, methods, devices or instrumentalities. The *practice of medicine* includes the practice of medicine alone or the practice of surgery alone, or both ([A.R.S. § 32-1401](#)).

AMB initiates investigations, disciplines and rehabilitates physicians and develops standards governing the profession. An applicant for licensure must submit fingerprints for the purpose of obtaining a state and federal criminal records check (A.R.S. §§ [32-1403](#) and [32-1422](#)). The Licensing Department within AMB processes a variety of licenses which can be found [here](#). The total number of licensed physicians ending in FY 21 is 26,597 ([AMB 2021 Annual Report](#)).

Naturopathic Medicine

The [Naturopathic Physicians Medical Board](#) (NPMB) was created in 1935. The NPMB consists of seven members appointed to serve a term of five years. Prior to appointment, each prospective member must submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-1502](#)). NPMB sunset date is January 1, 2024 ([A.R.S. § 41-3023.05](#)).

All licensees and certificate holders must submit fingerprints for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-1524](#)). The NPMB regulates naturopathic medical students certified for clinical training, graduates certified to participate in preceptorship training and naturopathic medical assistants who work under the supervision of a licensed naturopathic

physician. Further, the NPMB processes and issues certificates to dispense and certificates to conduct preceptorship training to licensees. The NPMB functions to ensure the citizens of Arizona have a safe and dependable choice of healthcare providers when choosing a naturopathic physician.

Practice of naturopathic medicine in part, means a medical system of diagnosing and treating diseases, injuries, ailments of the human mind and body by natural means, drugless methods, drugs, nonsurgical methods and all forms of physical agents and modalities ([A.R.S. § 32-1501](#)). A list of the types of licenses and certificates that NPMB issues can be found [here](#).

Nursing

Established in 1921, the [Arizona State Board of Nursing](#) (ASBN) fulfills its mission through the regulation of the practice of nursing and the approval of nursing education programs. The ASBN consists of 11 members appointed to serve a term of five years. Before appointment a prospective member must submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-1602](#)). [Laws 2022, Chapter 76](#) extended the board's sunset date to July 1, 2026.

Each applicant for licensure or certification is required to submit a full set of fingerprints in order to obtain a state and federal criminal records check ([A.R.S. § 32-1606](#)). The ASBN reports the following numbers of nursing professionals:

1) Registered Nurses;	105,288
2) Licensed Practical Nurses;	11,097
3) Certified Nursing Assistants;	19,980
4) Licensed Nursing Assistants;	8,835
5) Nurse Practitioners;	11,964
6) Clinical Nurse Specialists;	135
7) Certified Nurse Midwives; and	322
8) Certified Registered Nurse Anesthetists	1,168

The statutory definitions for the above-mentioned nurses can be found in ([A.R.S. § 32-1601](#)).

Dispensing Opticians

Created in 1956, the [Arizona State Board of Dispensing Opticians](#) (SBDO) regulates the opticianry profession through administering examinations, issuing licenses to qualified opticians and optical establishments, proposing legislation, enacting rules and regulations and investigating complaints brought to the SBDO against licensed opticians and optical establishments. The SBDO consists of seven members appointed to serve a term of five years. Before appointment, a prospective member must submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-1672](#)). [Laws 2022, Chapter 36](#) extended the board's sunset date to July 1, 2030.

Dispensing optician, in part, means any person, who dispenses lenses, contact lenses, frames with a written prescription from a duly licensed physician or optometrist, and interprets, measures, adapts, fits or adjusts the same ([A.R.S. § 32-1671](#)).

There is no requirement for a dispensing optician to obtain a fingerprint clearance card or submit fingerprints for a state and federal criminal records check. According to the Auditor General, as of October 2020 SBDO reported 906 opticians and 406 optical establishments ([Report 20-112](#)).

Optometry

[Laws 1907, Chapter 29](#) created the Arizona Territorial Board of Examiners in Optometry which was renamed as the [Arizona State Board of Optometry](#) (SBO) in 1925. SBO examines, licenses and regulates the profession of Optometric Doctors (O.D.) in Arizona, as well as regulates out-of-state contact lens dispensers. The SBO consists of seven members appointed to serve a four-

year term. Before appointment, a prospective member must submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-1702](#)). SBO's sunset date is July 1, 2023 ([A.R.S. § 41-3023.08](#)).

According to the Auditor General, as of February 2022 SBO reported 1,319 licensed optometrists in Arizona ([Report 22-102](#)). Each applicant for licensure must submit a full set of fingerprints for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-1730](#)).

The *practice of the profession of optometry* means: 1) the examination or refraction of the human eye and its appendages and the employment of any objective or subjective means or methods other than surgery for the purpose of diagnosing or treating any visual, muscular, neurological or anatomical anomalies of the eye; 2) the use of authorized pharmaceutical agents; 3) the use of any instrument or device to train the visual system or correct any abnormal condition of the eye or eyes; 4) the prescribing, fitting or employment of any lens, prism, frame or mountings for the correction or relief of or aid to the visual function, provided that superficial foreign bodies may be removed from the eye and its appendages; and 5) the taking of smears of the human eye and its adnexa for culture analysis and the ordering or performing of clinical tests that are appropriate to diagnose, treat or manage conditions of the human eye and its adnexa and that are limited to those CLIA-waived clinical tests approved pursuant to federal law ([A.R.S. § 32-1701](#)).

Osteopathic Physicians and Surgeons

Created in 1941, the [Arizona Board of Osteopathic Examiners in Medicine and Surgery \(BOEMS\)](#) consists of seven members appointed to serve five-year terms. Before appointment, a prospective member must submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-1801](#)). BOEMS sunset date is July 1, 2025 ([A.R.S. § 41-3025.11](#)).

BOEMS approximately licenses and regulates over 2,900 osteopathic physicians. Applicants for licensure must submit a full set of fingerprints for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-1822](#)). BOEMS issues a variety of licenses and registrations which can be found [here](#).

The *practice of osteopathic medicine* in part, means the diagnosis, treatment or correction of any and all human diseases, injuries, ailments, infirmities or deformities, physical or mental, by any means, methods, devices or instrumentalities. The *practice of osteopathic medicine* includes the practice of medicine alone, the practice of surgery alone or manipulative therapy or any combination of either practice ([A.R.S. § 32-1800](#)). The differences and similarities between a licensed Medical Doctor and Osteopathic Physician can be found [here](#).

Pharmacy

The [Arizona State Board of Pharmacy](#) (SBP) consists of nine members appointed to serve a term of five years ([A.R.S. § 32-1902](#)). There is no statutory requirement for Board members to submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check. [Laws 2022, Chapter 35](#) extended the board's sunset date to July 1, 2026.

All applicants for licensure must apply for a fingerprint clearance card ([A.R.S. 32-1904](#)). A third-party logistics provider's (3PL) designated representative must possess a valid fingerprint clearance card ([A.R.S. § 32-1941](#)).

SBP regulates the practice of pharmacy and the manufacturing, distribution, sale and storage of prescription medications and devices and non-prescription medications. It accomplishes its mission by: 1) issuing licenses to pharmacists, pharmacy interns, pharmacy technicians and pharmacy technician trainees; 2) issuing permits to pharmacies, manufacturers, wholesalers, distributors, non-prescription retailers and 3PLs; 3) conducting compliance inspections of

permitted facilities; 4) investigating complaints and adjudicating violations of applicable state and federal laws and rules; and 5) promulgating and reviewing state rules and regulations.

The statutory definition for the *practice of pharmacy* can be found in ([A.R.S. § 32-1901](#)). The scope of the pharmacy practice includes traditional roles such as compounding and dispensing of medications, and it also includes more modern services related to health care, including clinical services, reviewing medications for safety and efficacy and providing drug information. The *practice of pharmacy* does not include initiating a prescription order for any medication, drug or other substance used to induce or cause a medication abortion as defined in ([A.R.S. § 36-2151](#)).

Controlled Substances Prescription Drug Monitoring Program (PMP)

[Laws 2007, Chapter 269](#) required the SBP to establish the PMP utilizing a computerized central database tracking system to track the prescribing, dispensing and consumption of schedule II, III, IV and V controlled substances. Each medical practitioner licensed under Title 32 (i.e. MD, DO, DDS, DMD, DPM, HMD, PA, NP, ND and OD) and who possesses a Drug Enforcement Administration (DEA) license is required to review the preceding 12 months of a patient's PMP record before prescribing an opioid analgesic or benzodiazepine-controlled substance listed in schedule II, III or IV ([A.R.S. § 36-2606](#)). Pharmacists employed by facilities with a valid U.S. DEA registration must register for the PMP.

According to the Arizona Auditor General, as of January 2020 SBP has issued over 32,546 licenses and 5,251 permits ([Report 20-106](#)). Licensed health professionals have varying prescriptive authority. SBE's provides a [chart](#) outlining prescriptive and refill authority for the health professionals listed below for schedule II opioids and non-opioids, schedule III opioids and non-opioids, schedule IV and schedule V medications:

- 1) Doctor of Medicine;
- 2) Doctor of Osteopathy;
- 3) Homeopathic Medical Doctor (must be an MD or DO);
- 4) Veterinary Doctor;
- 5) Dentist;
- 6) Physician Assistant;
- 7) Registered Nurse Practitioner;
- 8) Naturopathic Doctor;
- 9) Doctor of Podiatry; and
- 10) Doctor of Optometry.

Physical Therapy

[Laws 1952, Chapter 36](#) created the [Arizona State Board of Physical Therapy \(SBPT\)](#). SBPT consists of seven members appointed to serve staggered four-year terms. Board members cannot serve more than two successive four-year terms or for more than 10 consecutive years ([A.R.S. § 32-2002](#)). There is no statutory requirement for Board members to submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check. SPBT sunset date is July 1, 2024 ([A.R.S. § 41-3024.02](#)).

The SBPT licenses both physical therapists and physical therapist assistants. An applicant for licensure must obtain a valid fingerprint clearance card ([A.R.S. § 32-2022](#)).

Practice of physical therapy means:

- 1) Examining, evaluating and testing persons who have mechanical, physiological and developmental impairments, functional limitations and disabilities or other health and movement related conditions in order to determine a diagnosis, a prognosis and a plan of therapeutic intervention and to assess the ongoing effects of intervention;
- 2) Alleviating impairments and functional limitations by managing, designing, implementing and modifying therapeutic interventions including, in part, therapeutic exercise, functional

- training in self-care and in home, community or work reintegration and manual therapy techniques;
- 3) Reducing the risk of injury, impairments, functional limitations and disability by means that include promoting and maintaining a person's fitness, health and quality of life; and
 - 4) Engaging in administration, consultation, education and research ([A.R.S. § 32-2001](#)).

A *Physical Therapist Assistant* is a person who meets the statutory requirements for certification and who performs physical therapy procedures and related tasks that have been selected and delegated by the supervising physical therapist ([A.R.S. § 32-2001](#)).

([A.R.S. § 32-2030](#)) requires a business entity that offers physical therapy services to register with the SBPT. The physical therapy services must be conducted by a licensee or certificate holder.

Psychology and Behavioral Analysis

[Laws 1965, Chapter 102](#) created the [Arizona Board of Psychologist Examiners](#) (APBE). In 2008, APBE was granted oversight of behavioral analysts ([Laws 2008, Chapter 288](#)). APBE licenses individuals to practice psychology or behavior analysis in Arizona and investigate and adjudicate allegations of unprofessional conduct. APBE sunset date is July 1, 2028 ([A.R.S. § 41-3028.02](#)).

The ABPE is comprised of 10 members appointed to serve a five-year term ([A.R.S. § 32-2062](#)). There is no statutory requirement for Board members to submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check.

The *practice of psychology* means the psychological assessment, diagnosis, treatment or correction of mental, emotional, behavioral or psychological abilities, illnesses or disorders ([A.R.S. § 32-2061](#)).

Behavior analysis is defined as the design, implementation and evaluation of systematic environmental modifications by a behavior analyst to produce socially significant improvements in human behavior based on the principles of behavior identified through the experimental analysis of behavior. Behavior analysis does not include cognitive therapies or psychological testing, neuropsychology, psychotherapy, sex therapy, psychoanalysis, hypnotherapy and long-term counseling as treatment modalities ([A.R.S. § 32-2091](#)).

Physician Assistants

[Laws 1984, Chapter 102](#) created the Joint Board on the Regulation of Physician's Assistants which was renamed the [Arizona Regulatory Board of Physician Assistants](#) (ARBoPA) in 2002. ARBoPA is comprised of 11 members appointed to serve four-year terms. Before appointment, a prospective member must submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-2502](#)). ARBoPA sunset date is July 1, 2026 ([A.R.S. § 41-3026.12](#)).

The ARBoPA licenses and regulates over 1,000 physician assistants in Arizona. There is no requirement for a criminal record check or a fingerprint clearance card for physician assistants.

In order to practice as a PA, the PA must have a supervising physician. A *supervising physician* means a physician who holds a current unrestricted license, who supervises a PA and who assumes legal responsibility for health care tasks performed by the PA ([A.R.S. § 32-2501](#)).

The supervising physician must maintain a written agreement with the PA. The agreement must state that the physician will exercise supervision over the PA and retains professional and legal responsibility for the care rendered by the PA. The agreement must be signed by the supervising physician and the PA and updated annually. The agreement must be kept on file at the practice site and made available to the ARBoPA on request. Each year the ARBoPA must randomly audit at least five percent of these agreements for compliance ([A.R.S. § 32-2531](#)).

Radiologic Technologists

Prior to 2018, the regulatory oversight for the certification of [medical radiologic technologists](#) and the certification and regulation of [laser technicians](#) rested with the Arizona Radiation Regulatory Hearing Board (ARRA) and the Medical Radiologic Technology Board of Examiners (MRTBE). [Laws 2018, Chapter 234](#) eliminated the ARRA and the MRTBE and transferred regulatory oversight to the Arizona Department of Health Services (DHS) [Bureau of Special Licensing \(BSL\)](#).

The Director of DHS must appoint an Advisory Committee to collaborate with and assist the Director in performing its duties. The Director informs the Advisory Committee regarding all discipline actions. In addition to the Director, the Advisory Committee consists of 10 members appointed to serve three year terms ([A.R.S. § 32-2802](#)). There is no statutory requirement for members to submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check. There is no criminal record check or fingerprint clearance card requirement.

Homeopathic Physicians

[Laws 1980, Chapter 249](#) created the Board of Homeopathic Medical Examiners which was renamed as the [Arizona State Board of Homeopathic and Integrated Medicine Examiners](#) (SBHIME) in 2008. SBHIME consists of seven members who serve staggered three-year terms. Before an appointment, a prospective member must submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-2902](#)). SBHIME sunset date is July 1, 2028 ([A.R.S. § 41-3028.14](#)).

There is no requirement for a criminal history background check or a fingerprint clearance card. SBHIME registers, licenses and regulates medical assistants and physicians practicing homeopathic and integrated medicine in Arizona. The licensing provided by the SBHIME is independent of licensure provided from allopathic or osteopathic boards.

Homeopathic and Integrated Medicine license scope includes the practice of acupuncture, chelation (a therapy used to treat heavy metal poisoning), homeopathy, minor surgery, neuromuscular integration, nutrition, orthomolecular therapy and pharmaceutical medicine ([A.R.S. § 32-2901](#)). Physicians under this license who intend to dispense general, homeopathic or nutritional medications, substances or devices from an office, must apply for and receive a dispensing permit.

There are three approved titles for homeopathic doctors:

- 1) If the licensee is a graduate of a board approved allopathic school of medicine the licensee may use *medical doctor-homeopathic* or *homeopathic physician*;
- 2) If the licensee is a graduate of a board approved osteopathic school of medicine the licensee may use the designation *doctor of osteopathy-homeopathic* or *homeopathic physician*; and
- 3) If the licensee is a graduate of a board approved homeopathic medical school, the licensee must only use the designation *homeopathic doctor* or *doctor of homeopathy* ([A.R.S. § 32-2932](#)).

Behavioral Health Professionals

[Laws 1988, Chapter 313](#) created the [Arizona Board of Behavioral Health Examiners](#) (AzBBHE) to certify professionals in the fields of Social Work, Professional Counseling and Marriage and Family Therapy. In 1989 Substance Abuse Counseling was added as a behavioral health profession. The Board consists of 12 members appointed to serve three-year terms. Before appointment, a prospective member must submit a full set of fingerprints to the Governor for the

purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-3252](#)). AzBBHE sunset date is July 1, 2025 ([A.R.S. § 41-3025.14](#)).

The AzBBHE has four Academic Review Committees (ARCs) one for each of the practice areas. The ARC's are composed of three members who have been residents of this state for at least one year before appointment, at least one of whom is licensed in the professional area and have five years of experience in the applicable profession. At least one member must have served within the previous ten years as core or full-time faculty at a regionally accredited college or university in a program related to the applicable profession and have experience in the design and development of the curriculum of a related program. If qualified, a faculty member may serve on more than one academic review committee. A board member may not be appointed to serve on an ARC. The ARCs are charged with the reviewing and determining the qualifications of applicants and approving non-accredited educational programs ([A.R.S. § 32-3261](#)).

Pursuant to ([A.R.S. § 32-3280](#)), applicants for licensure shall submit a full set of fingerprints to the AzBBHE for purposes of a criminal records check *unless* they hold a valid fingerprint clearance card issued by the Arizona Department of Public Safety.

Statute defines *the practice of behavioral health* as the practice of marriage and family therapy, professional counseling, social work and substance abuse counseling. Following is a description of each of these practice areas:

- 1) The *practice of marriage and family therapy* means the professional application of family systems theories, principles and techniques to treat interpersonal relationship issues and nervous, mental and emotional disorders that are cognitive, affective or behavioral;
- 2) The *practice of professional counseling* means the professional application of mental health, psychological and human development theories, principals and techniques;
- 3) The *practice of social work* means the professional application of social work theories, principles, methods and techniques; and
- 4) The *practice of substance abuse counseling* means the professional application of general counseling theories, principles and techniques specifically adapted, based on research and clinical experience, to the specialized needs and characteristics of persons who are experiencing substance abuse, chemical dependency and related problems and to the families of those persons ([A.R.S. § 32-3251](#)).

Occupational Therapy

[Laws 1989, Chapter 296](#) created the [Arizona Board of Occupational Therapy Examiners \(BOTE\)](#). BOTE consists of five members appointed to serve three-year terms. Before appointment, a prospective board member must submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-3402](#)). BOTE sunset date is July 1, 2026 ([A.R.S. § 41-3026.09](#)).

BOTE issues and renews licenses for occupational therapists and occupational therapy assistants. Beginning January 1, 2022, an applicant for original licensure, license renewal, license reinstatement or a limited license must possess a valid fingerprint clearance card ([A.R.S. § 32-3430](#)). By law, the BOTE requires that each applicant meet minimum standards of education, experience and competency. BOTE receives and investigates complaints, takes appropriate disciplinary action and responds to inquiries from consumers as to the license status of individual occupational therapy professionals.

[Laws 2022, Chapter 116](#), adopted the Occupational Therapy Compact to allow licensed occupational therapists and occupational therapy assistants to obtain licensure in other compact states. It also created the Occupational Therapy Commission and outlines membership and duties.

Occupational Therapy is the use of therapeutic activities or modalities to promote engagement in activities with individuals who are limited by physical or cognitive injury or illness, psychosocial dysfunction, developmental or learning disabilities, sensory processing or modulation deficits or the aging process in order to achieve optimum functional performance, maximize independence, prevent disability and maintain health ([A.R.S. § 32-3401](#)).

Respiratory Care

[Laws 1990, Chapter 256](#) created the [State Board of Respiratory Care Examiners](#) (SBRCE). SBRCE consists of seven members appointed to serve three-year terms. Before appointment, a prospective member must submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-3502](#)). SBRCE sunset date is July 1, 2025 ([A.R.S. § 41-3025.04](#)).

Respiratory care therapists are required to submit a full set of fingerprints to SBRCE for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-3504](#)).

Statute defines the *practice of respiratory care* as direct and indirect respiratory care services that are performed in a clinic, hospital, skilled nursing facility or private dwelling or other place deemed appropriate or necessary by SBRCE in accordance with the prescription or verbal order of a physician and performed under qualified medical direction. Statute outlines the different types of respiratory care services such as administering pharmacological, diagnostic and therapeutic agents that are related to respiratory care procedures ([A.R.S. § 32-3501](#)).

Acupuncture

[Laws 1998, Chapter 239](#) created the [Acupuncture Board of Examiners](#) (AABE). Since the Board's creation its membership has consisted of nine members, including four licensed acupuncturists, three consumers and two licensed health professionals all appointed by the Governor for three-year terms. The Legislature extended the board's sunset date to July 1, 2030 ([Laws 2022, Chapter 37](#)).

[Laws 2021, Chapter 312](#) modified the Board's membership requirements as follows: 1) beginning January 17, 2022, one member who is certified or licensed to practice auricular acupuncture or acupuncture; 2) beginning January 18, 2022, two consumers who meet specified requirements and one member who meets prescribed licensure criteria; and 3) beginning January 20, 2022, three members who are licensed to practice acupuncture and have practiced in Arizona or any state for at least one year. Before appointment, a prospective member must submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check ([A.R.S. § 32-3902](#)).

The Legislature passed a law requiring an acupuncturist or acupuncture detoxification specialist to possess a valid fingerprint clearance card beginning January 1, 2023. It also modified the definition of *acupuncture* to mean a system of medicine based in traditional practices and informed by contemporary science which includes: 1) puncturing the skin by thin solid needles to reach subcutaneous structures; 2) stimulating the needles to effect a positive therapeutic response; 3) removing needles; 4) using and prescribing adjunctive therapies and herbal therapies commensurate with the acupuncturist's education and training; 5) using decision support tools, including physical and clinical examinations; and 6) ordering diagnostic imaging and clinical laboratory procedures to determine the nature of care or to form a basis for referral to other licensed health care professionals, or both ([Laws 2022, Chapter 23](#)).

Auricular Acupuncture is the application of acupuncture needles to the pinna, lobe or auditory meatus to treat alcoholism, substance abuse or chemical dependency. AABE may issue auricular acupuncture certificates for that purpose. A certificate allows the certificate holder to practice auricular acupuncture under the supervision of a licensed acupuncturist ([A.R.S. § 32-3922](#)).

AABE reviews and examines and evaluates the qualification of applicants and issues acupuncture licenses and auricular acupuncture certificates to qualified applicants. Upon receipt of complaints against licensed acupuncturists and certificated auricular acupuncturists, AABE conducts investigations and will take disciplinary action as necessary ([A.R.S. § 32-3903](#)).

Athletic Trainers

[Laws 2000, Chapter 111](#) created the [Board of Athletic Training \(BAT\)](#). BAT membership consists of five members that serve staggered five-year terms that begin and end on the third Monday in January ([A.R.S. § 32-4102](#)). There is no statutory requirement for Board members to submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check. BAT sunset date is July 1, 2028 ([A.R.S. § 41-3028.07](#)).

The BAT issues and renews licenses for the athletic training profession based on the applicant meeting established standards of experience and competency. BAT also receives, investigates and resolves complaints taking necessary disciplinary action if appropriate, responds to inquiries from consumers as to the license status of individual athletic training professionals. Beginning January 1, 2022, an applicant for original licensure, license renewal, license reinstatement or temporary licensure is required to possess a valid fingerprint clearance card ([A.R.S. § 32-4128](#)).

Athletic training includes the following performed under the direction of a licensed physician and for which the athletic trainer has received appropriate education and training as prescribed by BAT:

- 1) The prevention, evaluation, immediate care and monitoring of athletic illnesses;
- 2) The prevention, recognition, examination, evaluation, rehabilitation and management of athletic injuries;
- 3) The referral of a person receiving athletic training services to appropriate health care professionals, as necessary;
- 4) The use of heat, cold, water, light, sound, electricity, passive or active exercise, massage, mechanical devices or any other therapeutic modality to prevent, treat, rehabilitate or recondition athletic injuries;
- 5) The planning, administration, evaluation and modification of methods for prevention and risk management of athletic injuries and athletic illnesses;
- 6) Education and counseling related to all aspects of the practice of athletic training; and
- 7) The use of topical pharmacological agents in conjunction with the administration of therapeutic modalities and pursuant to a prescription issued pursuant to the laws of this state and for which an athletic trainer has received appropriate education and training ([A.R.S. § 32-4101](#)).

[Laws 2022, Chapter 46](#) expanded the scope of practice for athletic trainers to provide dry needling as a therapeutic modality. BAT is required to adopt rules by September 30, 2022, to establish professional standards of care, training and education qualifications for athletic trainers performing dry needling for this purpose.

Massage Therapy

[Laws 2003, Chapter 202](#) created the [Arizona State Board of Massage Therapy \(ABMT\)](#). ABMT consists of five members that serve staggered five-year terms ([A.R.S. § 32-4202](#)). There is no statutory requirement for Board members to submit a full set of fingerprints to the Governor for

the purpose of obtaining a state and federal criminal records check. ABMT sunset date is July 1, 2023 ([A.R.S. § 41-3023.10](#)).

ABMT licenses and regulates massage therapists who specialize in the wellness, relaxation, stress reduction, pain relief, postural improvement or therapeutic benefits of the public ([A.R.S. § 32-4201](#)). ABMT evaluates the professional competency of massage therapists seeking to be licensed in Arizona. Furthermore, ABMT promotes continued competency and fitness by investigating complaints against massage therapists, holding hearings, monitoring the activities of its licensees and enforcing the standards of practice for the massage therapy profession as set forth by law.

Massage therapists are required to submit a full set of fingerprints for the purpose of obtaining a state and federal criminal history records check ([A.R.S. § 32-4203](#)).

Nursing Care Institution Administrators and Assisted Living Facility Managers

The Board of Examiners of [Nursing Care Institution Administrators and Assisted Living Facility Managers \(NCIA\)](#) handles the licensing and regulation for the Administrators and Managers of Nursing Care Institutions and Assisted Living Facilities. The NCIA is comprised of 11 members. Board members who are not affiliated with a nursing care institution or an assisted living facility shall be appointed for two-year terms. Board members who are the administrator of a nursing care institution or the manager of an assisted living facility shall be appointed for three-year terms ([A.R.S. § 36-446.02](#)). There is no statutory requirement for Board members to submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check.

Assisted living facility manager means a person who has responsibility for administering or managing an assisted living facility, whether or not that person has an ownership interest in the institution and whether or not the person's functions and duties are shared with others ([A.R.S. § 36-446](#)).

Administrator or nursing care institution administrator means a person who is charged with the general administration of a nursing care institution, whether or not that person has an ownership interest in the institution and whether or not the person's functions and duties are shared with others ([A.R.S. § 36-446](#)).

Both professions are required to obtain a valid fingerprint clearance card ([A.R.S. § 36-446.04](#)).

Midwifery

The Arizona Department of Health Services (DHS) [Bureau of Special Licensing](#) (BSL) regulates and outlines the duties and limitation of the practice of midwifery ([A.R.S. § 36-755](#)). The [Licensed Midwife Advisory Committee \(LMAC\)](#) is comprised of eight board members that serve three-year terms at the discretion of the Director of DHS. LMAC duties include the following activities: 1) examining aggregate data from midwife reports; 2) examining any notifications received by DHS regarding a client's death or delivery of a stillborn or newborn child as required in ([R9-16-104](#)); and 3) examining evidence-based research pertaining to the practice of midwifery. There is no requirement for Board members to submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check.

A *midwife* is a person who delivers a baby or provides health care related to pregnancy, labor, delivery and postpartum care of the mother and her infant ([A.R.S. § 36-751](#)). In Arizona, there are two types of midwives who may legally assist a woman with childbirth: 1) a certified nurse midwife

(holds a license from the ASBN); and 2) a licensed midwife (obtained from BSL). According to DHS, there are approximately 74 licensed midwives in Arizona. Midwives currently practice in seven counties in Arizona and are not required to obtain a valid fingerprint clearance card or criminal background check.

Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists

The DHS Director has the authority to license individuals who possess the necessary qualifications to obtain a license for the practice of fitting and dispensing hearing aids, audiology and speech language pathology ([A.R.S. § 36-1902](#)). Specifically, the Director is required to appoint an advisory committee to collaborate with the Director to oversee these professions. The [Speech & Hearing Professionals Advisory Committee](#) is comprised of 12 members who are not required to submit a full set of fingerprints to the Director of DHS for the purpose of obtaining a state and federal criminal records check.

Statute, in part, defines these professions as follows:

- 1) *Audiology* - nonmedical and nonsurgical application of principles, methods and procedures of measurement, testing, evaluation and prediction that are related to hearing, its disorders and related communication impairments for the purpose of nonmedical diagnosis, prevention, amelioration or modification of these disorders and conditions;
- 2) *Practice of fitting and dispensing hearing aids* - the measurement of human hearing by means of an audiometer or by any other means, solely for the purpose of making selections or adaptations of hearing aids and the fitting, selling and servicing of hearing aids, including assistive listening devices and the making of impressions for ear molds and includes identification, instruction, consultation, rehabilitation and hearing conservation as these relate only to hearing aids and related devices and, at the request of a physician or another licensed health care professional, the making of audiograms for the professional's use in consultation with the hearing impaired; and
- 3) *Speech-language pathology* - the nonmedical and nonsurgical application of principles, methods and procedures of assessment, testing, evaluation and prediction related to speech and language and its disorders and related communication impairments for the nonmedical diagnosis, prevention, amelioration or modification of these disorders and conditions ([A.R.S. § 36-1901](#)).

Military Family Relief Fund

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Law 2007, Chapter 258 established the Military Family Relief Fund (Fund) to be administered by the Arizona Department of Veterans' Services (ADVS). The Fund currently provides financial assistances to military servicemembers, veterans and their families experiencing a financial hardship under specific conditions.

Laws 2018, Chapter 258 split the Fund into the Pre-9/11 and Post-9/11 subaccounts. The Fund sunsets on January 1, 2027 ([A.R.S. § 41-608.04](#)).

The Fund consists of private donations, grants, bequests and any other monies received for the Fund's purpose. Private donations may qualify for an income tax credit of \$200 for an individual or head of household or \$400 for a married couple filing joint returns ([A.R.S. § 43-1086](#)). The Fund has a \$1,000,000 annual cap for refundable Arizona tax credits that is met on a first come, first served basis.

Servicemembers, veterans or their families are eligible to apply for financial assistance under the following conditions:

- 1) The applicant has a financial need of up to \$20,000;
- 2) The servicemember must:
 - a) Have been deceased, wounded or injured or become seriously ill;
 - b) Have been deployed from a military base in Arizona;
 - c) Claimed Arizona as the servicemember's home of record;
 - d) Have been a member of the Arizona national guard at the time of deployment; or
 - e) Established residency in Arizona and be able to provide proof of continuous physical presence in Arizona for at least 12 months before submitting an application; and
 - f) If discharged from military service, the servicemember must have been discharged under honorable conditions.

Eligible assistance is as follows:

- 1) Widows, widowers or dependent children of servicemembers who died in the line of duty in a combat zone or a zone where the person was receiving hazardous duty pay for a stipend for living expenses for up to six months;
- 2) An immediate family member for payment of costs of temporary residence near the medical facility where the servicemember or former servicemember is being treated, including living, travel and housing expenses; and
- 3) An immediate family member, servicemember or former servicemember for living expenses and other appropriate expenses as determined by an advisory committee.

The Pre-9/11 and Post 9/11 subaccounts each have a separate advisory committee that must establish an application process, review and evaluate applications to determine the award of financial assistance and establish criteria for use of monies. Each advisory committee consists of the Director of ADVS or the Director's Designee and 12 additional members that are appointed by the Governor.

Model City Tax Code

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The Arizona Constitution grants all municipal corporations with the authority to "assess and collect taxes".¹ Each city and town may levy its own privilege and use tax that is separate and distinct from the imposition of the state transaction privilege tax (TPT) and county general excise tax. In 1984, the Municipal Sales Tax Study Commission (Commission) was established to study the various municipal sales tax ordinances and the uniformity of the ordinances among the municipalities². The Commission found that the multiple and diverging municipal sales tax codes resulted in confusion and difficulty in compliance for Arizona's businesses. In response, the Arizona Legislature established the Municipal Tax Code Commission (MTCC) in 1987 and in 1988, required all cities and towns imposing transaction privilege and use taxes to adopt the Model City Tax Code (MCTC), which combined all the city tax codes into a single document, by January 1, 1989³. Today, Arizona's cities and towns use the MCTC as the basis for imposing their privilege tax. Although the MCTC is intended to facilitate tax base uniformity among cities, it authorizes cities and towns to exempt or tax certain items that are not part of the standard or "model" language of the code⁴.

[Laws 2011, Chapter 129](#) requires the Arizona Department of Revenue (DOR) to maintain the official copy of the MCTC and post it on their website; it can be accessed [here](#). The electronic version of the MCTC contains the text of the *model* options and the *local* options, a chart displaying which options each city or town has chosen, and other specific information pertaining to each city and town.

Municipal Tax Code Commission

The MTCC is responsible for overseeing the MCTC and consists of the Director of DOR (Director), or the Director's representative, as an ex officio member without the power to vote and nine members who are mayors or members of the governing bodies of cities or towns that have adopted the MCTC. Five members are appointed by the Governor, two members are appointed by the President of the Senate and two members are appointed by the Speaker of the House of Representatives. No more than two members may be from the same city or town and each member serves a three-year term. Statute requires the MTCC to meet in response to any proposed amendment to the MCTC or at the request of four or more members. The MTCC is required to prepare a report and deliver the report to the Governor, the President of the Senate and the Speaker of the House of Representatives before January 1st of each year.

Modifications to the MCTC

The Arizona Legislature passed [Laws 2020, Chapter 71](#) in an effort to streamline and simplify the review and comment process on proposed amendments to the MCTC. The law requires a city or town, a taxpayer or DOR to submit a proposed amendment for review and consideration to the MTCC at least 60 days before the MTCC adopts the amendment. The MTCC may be required to

¹ [Ariz. Cons. art 13, sec 6](#)

² Laws 1984, Chapter 253

³ Laws 1988, Chapter 107

⁴ [JLBC 2019 Tax Handbook](#)

hold two public hearings before any proposed amendment is adopted: an informational public hearing, at the request of a city or town, taxpayer or DOR, and a public hearing to consider adoption of a proposed amendment.

If an informational public hearing is requested, it must be held at least 30 days after receiving the amendment for the MTCC to review it and receive comments. The MTCC is required to consider any information and testimony presented at this hearing, may require changes to the language presented and may require changes to the amendment presented by the city, town, taxpayer or DOR. DOR must provide a legal analysis of the amendment at the hearing and post the proposed amendment with any required changes on their website within five days of the hearing.

At least 60 days after receiving a proposed amendment, the MTCC must hold a public hearing to consider any information and testimony presented at the informational public hearing, if one was requested, and to consider adopting the proposed amendment. If the amendment is adopted, DOR must update the official copy of the MCTC to reflect any changes made by the amendment within 10 days of it being adopted. Any changes not reflected on the official copy posted on DOR's website are void.

DOR is required to post the proposed amendment, meeting notice and meeting agenda on their website at least 30 days before the informational public hearing, if one is requested, and at least 60 days before the public hearing to consider adoption of a proposed amendment.

Furthermore, a city or town may not adopt any modification or amendment to the MCTC unless the city or town holds a public hearing on the proposed action before the modification or amendment becomes effective⁵.

Changes in the Tax Rate

Changes in a tax rate made by a city or town are not subject to review by the MTCC, however, within 10 days after passage of an ordinance imposing a rate change, the city or town must notify the MTCC and DOR. [Laws 2020, Chapter 71](#) defines a new or different tax rate as the adoption or repeal of a *model* or *local* option or any change that increases the amount of tax that a taxpayer must pay to a city or town.

Administration, Collection and Audits

Prior to 2017, cities and towns were allowed to enter into intergovernmental contracts with DOR to provide a uniform method of administration, collection and audit of municipal TPT and affiliated excise taxes. There were 18 *non-program*, or self-collecting, cities that administered and collected their own TPT and affiliated excise taxes. Furthermore, all cities and towns were authorized to conduct audits in accordance with guidelines interpreting the MCTC published by the Unified Audit Committee (UAC)⁶. However, in an effort to simplify and centralize the administration, collection and audit of TPT and affiliated excise taxes, the Arizona Legislature passed [Laws 2013, Chapter 255](#), which requires, rather than allows, DOR and any city or town to enter into intergovernmental contracts. The law requires DOR to collect and administer any TPT and affiliated excise taxes imposed by any city or town through DOR's online portal. Additionally, all audits are required to be conducted through a single, unified audit system administered by DOR and in accordance with standard audit procedures defined in the DOR audit manual. Any

⁵ [A.R.S. § 42-6054](#)

⁶ [A.R.S. § 42-6005](#) requires the Director of DOR to establish the UAC with cities and towns for the purpose of coordinating uniform audit functions.

intergovernmental contract that is entered into by a city or town and DOR must include the following:

- 1) All auditors must be trained in accordance with the policies of DOR;
- 2) The audit of a taxpayer that has locations in two or more cities or towns must be conducted by DOR;
- 3) All audits must include all taxing jurisdictions regardless of which jurisdiction conducts the audit;
- 4) A city or town may conduct an audit of any taxpayer that is engaged in business in only one city or town and any other taxpayer that is authorized by DOR;
- 5) DOR must issue all audit assessments on behalf of all taxing jurisdictions in a single notice to the taxpayer;
- 6) Appeals of audit assessments must be directed to DOR; and
- 7) DOR must notify all affected cities and towns before entering into any settlement or agreement with a person related to the tax imposed by the cities and towns⁷.

Wayfair

In 2018, the United States Supreme Court ruled in *South Dakota vs. Wayfair*⁸ that states may require businesses without a physical presence that meet specific criteria, including having more than 200 transactions or \$100,000 of in-state sales, collect and remit sales taxes on transactions in the state. This decision affected how states impose their sales tax considerably by allowing them to collect based on an economic nexus as opposed to the previous physical presence test. In response to this decision, the Arizona Legislature passed [Laws 2019, Chapter 273](#) (HB 2757), which, in pertinent part, sets an economic nexus standard for remote sellers and marketplace facilitators.

The law requires a remote seller, that is not facilitated by a marketplace facilitator, to pay TPT on retail sales of tangible personal property if their gross income from customers in Arizona meets the following thresholds: 1) \$200,000 in 2019; 2) \$150,000 in 2020; and 3) \$100,000 in 2021 and each calendar year thereafter. Additionally, a marketplace facilitator is required to pay TPT on retail sales of tangible personal property if the gross proceeds or gross income derived from the facilitator's business is more than \$100,000.

Notably, the legislation preempts the retail classification in the MCTC by specifying that [A.R.S. §42-5061](#) supersedes all city or town ordinances or other local laws relating to the taxation of retail business activities. However, through [A.R.S. § 42-6017](#), cities and towns retain the ability to levy a transaction privilege tax on the gross proceeds of sales or gross income derived from the following retail sales:

- 1) The business of selling food at retail;
- 2) A bookstore selling textbooks that are required by any state university or community college;
- 3) The sales of livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption used for specific consumption purposes;
- 4) The sale of nonmetalliferous mined materials at retail;
- 5) The sale of works of fine art; and

⁷ [A.R.S. § 42-6002](#)

⁸ [South Dakota vs. Wayfair, Inc., et al](#)

- 6) The sale of a motor vehicle to a nonresident and an enrolled member of an Indian tribe under specific conditions.

Finally, the law indicates that the municipal tax rate for retail businesses selling tangible personal property for marketplace facilitators is the municipal tax rate in effect in that city or town on September 30, 2019, until the city or town changes the tax rate.

Natural Resource Conservation Districts Overview

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Background

Farmers, ranchers and other agricultural producers can establish Natural Resource Conservation Districts (NRCDs) to help preserve land, water and other natural resources. Although formed by local landowners, the districts are tied to the U.S. Department of Agriculture (USDA). In 1935, Congress authorized the USDA to establish the Soil Conservation Service¹ in response to the Dust Bowl to conduct surveys and research on soil erosion, carry out soil prevention measures and cooperate with and provide aid to other agencies' conservation efforts. States were required to enact certain laws in order to receive aid from the Soil Conservation Service ([Public Law 74-46](#)). In 1941, the Legislature allowed soil conservation districts to form and established a body to oversee these districts and secure the cooperation of federal and state agencies ([Laws 1941, Chapter 43](#)). The Legislature has made several revisions to the law, such as allowing range lands to be included in the districts ([Laws 1954, Chapter 38, §11](#)) and changing the name of the districts to "natural resource conservation districts" ([Laws 1972, Chapter 28](#)). This research digest reviews current law and provides financial information on NRCDs and similar conservation districts in Arizona.

Oversight of NRCDs

Among the duties of the State Land Commissioner, who is appointed by the Governor, is to also serve as the State Natural Resource Conservation Commissioner (Commissioner) ([A.R.S. § 37-1012](#)). The duties of the Commissioner include providing assistance to the supervisors who govern an NRCD, providing information to districts, coordinating programs and distributing funds to districts. The Commissioner can also remove a supervisor after a hearing if that supervisor is guilty of misfeasance, malfeasance or nonfeasance (such as failing to attend three district meetings in a row without a reasonable excuse) ([A.R.S. § 37-1013](#)).

NRCD governance and activities

Each NRCD is governed by five supervisors. Three of these supervisors are elected by district landowners and serve six-year terms. The Commissioner appoints the other two supervisors, who serve two-year terms ([A.R.S. § 37-1051](#)). Beyond appointing officers and advisory members, the supervisors can employ secretaries, staff and other professional experts ([A.R.S. §§ 37-1052](#) and [37-1053\(B\)](#)).² Supervisors also must annually file any audits and records of their district's operations with the Commissioner ([A.R.S. § 37-1013](#)).

NRCDs have broad authority to engage in various conservation activities, including:

- Conducting surveys, investigations and research on topics such as soil erosion prevention, farm and range practices and eradicating noxious weeds;
- Conducting demonstration projects to show how water, soil and other natural resources can be conserved and how soil erosion can be controlled or prevented;
- Creating and administering soil health programs;
- Helping landowners, operators and state and federal agencies carry out voluntary and non-regulatory activities including watershed improvement, soil erosion prevention and various land improvements on farm and range lands;

¹ In 1994, Congress merged the Soil Conservation Service with several other USDA conservation programs and renamed it the Natural Resource Conservation Service to reflect its broader mission ([Public Law 103-354](#)).

² Supervisors can also determine their own compensation, but it cannot exceed \$30 per day that they are engaged in district activities. Additionally, supervisors can be compensated for some expenses incurred while engaged in district business such as attending district meetings and can receive a per diem subsistence ([A.R.S. § 37-1053\(D\)](#)).

- Acquiring and maintaining property and making machinery and equipment available to assist landowners in carrying out programs on their lands;
- Establishing education centers that can offer technical guidance and training. These centers can also conduct or sponsor scientific studies and publish scholarly materials. As of September 2020, there are 25 education centers that are supported by one or more of Arizona's 30 operating NRCDs;³ and
- Applying for and awarded Arizona Water Protection Fund monies for district conservation projects including improvements to watersheds and habitat and grassland restoration ([A.R.S. § 37-1054](#)).

Forming, expanding, and dissolving an NRCD

To create a NRCD, 25 or more landowners whose property comprises at least 20% of the proposed district's area must petition the Commissioner ([A.R.S. § 37-1031](#)).⁴ The Commissioner will then hold a public hearing on creating the district ([A.R.S. § 37-1032](#)). If the Commissioner determines that creating an NRCD is in the public interest, the Commissioner will define the boundaries of the proposed district based on factors such as the characteristics of the land, prevailing land use practices and the proposed area's relationship to watersheds, agricultural regions and other NRCDs.⁵ Crucially, the Commissioner cannot include the lands of someone who does not want to be a member of the proposed district. ([A.R.S. § 37-1033](#)). The Commissioner will then hold a referendum on creating the proposed district. Only landowners within the proposed district's boundaries can vote in this referendum ([A.R.S. § 37-1034](#)). The district will be formed if it receives favorable votes from the following:

- At least 65% of the landowners voting in the referendum; and
- Owners of at least 50% of the private land within the proposed district.

In addition to this referendum, the Commissioner will hold an election to select three supervisors to help govern the district ([A.R.S. § 37-1034\(A\)](#)). The three candidates with the highest number of votes will serve as supervisors with staggered terms ([A.R.S. § 37-1035](#)).

Adjacent territory can be added to the district if at least 75% of the territory's private landowners sign and submit a petition to the NRCD's supervisors. The supervisors will hold a public hearing and make a recommendation to the Commissioner. If the Commissioner approves, the adjacent territory will become part of the NRCD. As with creating an initial NRCD, this additional territory cannot include the property of any landowner who does not want to become part of the district ([A.R.S. § 37-1037](#)). Statute also lays out a similar process for combining two or more NRCDs ([A.R.S. § 37-1040](#)).

An NRCD can be dissolved five years after it is created. Twenty-five landowners or at least 20% of the landowners within the NRCD must petition the Commissioner to terminate the district. The Commissioner will then hold a hearing on the petition and supervise the referendum. If at least 65% of the NRCD's landowners vote to terminate the district, it will be dissolved. All district property will be sold at public auction and the proceeds will be directed to the State Treasurer ([A.R.S. § 37-1038](#)).

³ In addition to these 30 NRCDs, there are two other NRCDs that are formed but as of September 2020 are not functioning (see Table 1 on page 5 for additional information).

⁴ When there are fewer than 25 owners in a proposed NRCD, at least 25% of owners must sign the petition.

⁵ If the Commissioner denies the petition to form an NRCD, the landowners can file another petition 18 months later.

Funding

There are two funding requirements for NRCDs in Arizona Revised Statute:

- The Commissioner must include up to \$40,000 for each district and \$60,000 for each education center in the State Land Department's annual budget request. To qualify for funding, NRCDs must comply with certain statutory requirements, such as providing the Commissioner with information on the district's lands and the conservation programs or education center programs that will be implemented with this funding ([A.R.S. § 37-1014](#)); and
- Subject to legislative appropriation, the State Land Department must distribute \$5,000 annually to each NRCD with an education center from the Environmental Special Plate Fund, the funding of which is managed by the Arizona Department of Transportation. This fund receives monies from a \$25 fee that someone pays for an environmental-themed license plate. Of that amount, \$17 is deposited into this fund ([A.R.S. § 28-2413](#)).⁶ Education centers must use this funding to develop and implement environmental education programs that are based on current scientific information and include "a discussion of economic and social implications." Fund monies are exempt from lapsing ([A.R.S. § 37-1015](#)).

For many years, the Legislature has appropriated \$650,000 to the State Land Department for NRCDs, which includes \$390,000 from the state General Fund and \$260,000 from the Environmental Special Plate Fund. However, a general decline in the Environmental Special Plate Fund's revenues has meant that there are insufficient fund monies for the entire legislative appropriation. For example, in FY 2019, only \$113,847 could be distributed from this fund. When divided among the 30 NRCDs that sponsor education centers, this distribution amounts to \$3,795 per NRCD, which is less than the \$5,000 required by statute.

Tribal soil and water conservation districts

In addition to the 32 recognized NRCDs (30 of which are operational), Arizona is also home to 10 soil and water conservation districts (SWCDs) that are established by Tribal governments under their respective laws. The USDA Secretary recognizes these districts with memorandums of understanding between the Tribal government, the SWCDs, the state, and the USDA. Currently, SWCDs do not qualify for state funding, but they can receive funding from Tribal governments and apply for federal grants.

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⁶ The remaining \$8 is deposited into the State Highway Fund. Monies in this fund can be used for various highway-related costs, including Department of Transportation expenses for staff salaries, equipment, and constructing and repairing buildings; constructing and maintaining state routes and rural post roads; paying damages incurred to land when a state route or highway is created, altered, or abandoned ([A.R.S. § 28-6993](#)).

Arizona State Land Department. (2019). *2019 Annual Report from Natural Resource Conservation Commissioner Lisa A. Atkins.*

Appendix

Table 1. State authorized NRCDs in Arizona as of FY 2020

Agua-Fria NRCD	Florence-Coolidge NRCD	Navajo County NRCD	Verde NRCD
Apache NRCD	Fredonia NRCD	Parker Valley NRCD	Welton-Mohawk NRCD
Big Sandy NRCD	Gila Bend NRCD	Pima NRCD	West Pinal NRCD
Buckeye Valley NRCD	Gila River NRCD*	Redington NRCD	Whitewater Draw NRCD
Chino Winds NRCD	Gila Valley NRCD	San Pedro NRCD	Wickenburg NRCD*
Coconino NRCD	Hereford NRCD	Santa Cruz NRCD	Willcox- San Simon NRCD
East Maricopa NRCD	Laguna NRCD	Tonto NRCD	Winkelman NRCD
Eloy NRCD	Littlefield-Hurricane Valley NRCD	Triangle NRCD	Yuma NRCD

*Districts that are currently non-operational.

Table 2. Tribal-authorized soil and water conservation districts in Arizona as of FY 2020

Name	Sponsoring tribe
Chinle SWCD	Navajo Nation
Fort Defiance SWCD	Navajo Nation
Hopi SWCD	Hopi Tribe
Hualapai SWCD	Hualapai Tribe
Little Colorado River SWCD	Navajo Nation
Navajo Mountain SWCD	Navajo Nation
San Carlos Apache SWCD	San Carlos Apache Tribe
Shiprock SWCD	Navajo Nation
Tohono O'odham SWCD	Tohono O'odham Nation
White Mountain Apache SWCD	White Mountain Apache Tribe

Table 3. Natural resource conservation district education centers in Arizona as of FY 2022

Name	Established and supported by
Apache NRCD Education Center	Apache NRCD
Big Sandy NRCD Education Center	Big Sandy NRCD
Buckeye Valley Conservation Education Center	Buckeye Valley NRCD and Gila Bend NRCD
Central Arizona Environmental Education Center	Agua Fria-New River NRCD
Desert Willow Environmental Education Center, Inc.	East Maricopa NRCD
Fredonia NRCD Education Center	Fredonia NRCD

Gila Valley NRCD Education Center	Gila Valley NRCD
Hereford Conservation and Environmental Education Center	Hereford NRCD
Littlefield-Hurricane Valley Education Center	Littlefield-Hurricane Valley NRCD
Natural Resource Education Center	Eloy NRCD, Florence-Coolidge NRCD, West Pinal NRCD
Navajo County NRCD Environmental Education Center	Navajo County NRCD
Nimon S. Hopkins Conservation Education Center, Inc.	Whitewater Draw NRCD
Parker Valley Education Center	Parker Valley NRCD
Pima Center for Conservation Education	Pima NRCD
Redington Conservation Education Center	Redington NRCD
San Pedro Valley Education Center	San Pedro NRCD
Santa Cruz NRCD Education Center	Santa Cruz NRCD
Tonto Natural Resources Learning Center	Tonto NRCD
Verde Conservation Education Center, Inc.	Verde NRCD
Welton-Mohawk Valley NRCD Education Center	Welton-Mohawk NRCD
Western Yavapai Conservation Education Center	Chino Winds NRCD and Triangle NRCD
Willcox-San Simon Center for Environmental Education	Willcox-San Simon NRCD
Willow Bend Environmental Education Center	Coconino NRCD
Winkelman NRCD Education Center	Winkelman NRCD
Yuma Conservation Garden Inc.	Laguna NRCD and Yuma NRCD

Payment in Lieu of Taxes

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Introduction

Property and sales taxes are the primary source of revenues for local governments, yet federal lands are typically exempt from state and local taxation. Western states have a higher concentration of federal lands, which greatly impacts local tax bases. For example, only 17.6% all Arizona lands are privately owned: the rest consists of federal, tribal or state trust lands.¹ In fact, every Arizona county contains some lands that are controlled by the federal government.

To address this issue, Congress established the Payment in Lieu of Taxes (PILT) program in 1976, which makes annual payments to local governments to compensate for reductions in the property tax base due to the presence of certain federal lands called "entitlement lands."² In most cases, the local governments that receive PILT payments are counties, but townships, cities and other political subdivisions may also receive these payments. As indicated in Table 1, twelve western states (including Arizona) received about 82% of all PILT payments from the Department of Interior (DOI) in FY 2021. Arizona's portion of those payments totaled nearly \$40.2 million for over 28.1 million acres of entitlement lands (see Table 2).

Defining Entitlement Lands

Local governments are eligible to receive PILT for entitlement lands, which consist of lands:

- 1) In the National Park System (NPS) or the National Forest System (NFS), including wilderness areas;
- 2) Administered by DOI through the Bureau of Land Management (BLM) and the Bureau of Reclamation;
- 3) Used by the federal government for water resource development projects, which are administered by the Bureau of Reclamation;
- 4) Used by the Army for mobilization and for reserve training;
- 5) Used for dredge disposal by the U.S. Army Corps of Engineers;
- 6) Located in the Purgatory River Canyon and Pinon Canyon, Colorado, and acquired by the U.S. Government to expand the Fort Carson military installation; and
- 7) A reserve area that was withdrawn from public domain and is administered by DOI through the U.S. Fish and Wildlife Service (FWS).³

Crucially, not all land owned by the federal government qualifies as entitlement lands. For example, lands belonging to other federal agencies such as the National Aeronautical and Space Administration and the Department of Homeland Security are not considered entitlement lands. Within Arizona, entitlement lands in Arizona are limited to those managed by the BLM, NFS, Bureau of Reclamation, NPS, Army Corps of Engineers and FWS (see Table 3 for entitlement land acreage in each Arizona county).⁴

Lands are not eligible for PILT if the lands were exempt from local real estate taxes when they were transferred to the federal government except for:

- 1) Lands a state or unit of local government acquires from a private party to donate to the federal government within eight years of acquisition;

¹ Arizona State Land Department and U.S. Bureau of Land Management. (2019). "Arizona Surface Management Responsibility." <https://land.az.gov/sites/default/files/media/state.pdf>.

² [Public Law 94-565](#).

³ [31 U.S.C. § 6901\(1\)](#).

⁴ Office of Secretary, *Fiscal Year 2021 Payments in Lieu of Taxes*, (Washington, D.C.: U.S. Department of Interior), 214, <https://www.doi.gov/sites/doi.gov/files/2021-national-summary-pilt-508.pdf>.

- 2) Lands that are acquired by a state in exchange for entitlement land that was eligible for PILT; and
- 3) Lands in Utah acquired by the federal government if, at the time of acquisition, the lands were eligible for PILT according to Utah state law.⁵

Types and Uses of Payments

There are three types of PILT payments, each named for their respective sections of law:

- 1) Section 6902 payments constitute the primary formula for most entitlement lands and can be used for any governmental purpose.⁶
- 2) Section 6904 payments are for federal lands acquired as additions to NPS or National Forest Wilderness Areas and must be distributed to local governments and school districts that lost property tax revenue from the acquisition.⁷
- 3) Section 6905 payments are for federal lands in the Redwood National Park or Lake Tahoe Basin and can be used for any governmental purpose in some instances or must be allocated to a school district.⁸

Of the total PILT Arizona received in FY 2021, over \$40.1 million (99.9%) consisted of 6902 payments. The remaining \$45,359 were 6904 payments (see Table 2 for a breakdown of these payments).

Calculating 6902 Payments for Entitlement Lands

The formula for calculating 6902 payments is affected by the following variables:

1. Entitlement land acreage;
2. The local government's population;
3. Payments made in prior years from other federal land payment programs; and
4. Changes to the Consumer Price Index (CPI) as calculated by the U.S. Bureau of Labor Statistics.⁹

The formula includes two different ways of calculating 6902 payments: the Standard Rate and the Limited Provision. The greater of the two is used for payment. Both are calculated, in part, by multiplying the entitlement land acreage by an amount per acre which is annually adjusted for inflation. However, the Standard Rate uses a higher amount per acre (\$2.87) than the Limited Provision (\$0.41) but deducts federal revenue sharing payments received in the previous fiscal year.¹⁰

Standard Rate calculation for Pima County in FY 2021

1,535,128 acres x \$2.87	\$	4,405,817
Deduction for prior year payments	\$	-169,948
Payment to county	\$	4,235,869

Limited Provision calculation for Pima County in FY 2021

1,535,128 acres x \$0.41	\$	629,402
Payment to county	\$	629,402

Regardless of the calculation, 6902 payments cannot exceed a population-based ceiling that is calculated based on a statutory formula. This population-based ceiling is based on a sliding scale, beginning at \$77.36 per person for populations of 50,000 or more and increasing to \$193.39 per

⁵ [31 U.S.C. § 6902\(b\)](#).

⁶ [31 U.S.C. § 6902\(a\)](#).

⁷ [31 U.S.C. § 6904](#).

⁸ [31 U.S.C. § 6905](#).

⁹ [43 C.F.R. § 44.21](#).

¹⁰ [31 U.S.C. § 6903\(b\)](#).

person for populations of 5,000 and smaller. (As with the per acre calculations, the population-based ceiling is indexed to inflation. See Table 4 for this ceiling as of FY 2021).¹¹ The result is rounded to the nearest thousand dollars. In the case of the Standard Rate, deductions for prior year payments are made after the population-based ceiling is applied (see Table 5 to see how the population-based ceiling impacts 6902 payments).

Population-Based Ceiling for Pima County FY 2021

50,000+ people x \$77.36	\$	3,868,000
Deduction for prior year payments	\$	-169,948
Payment to county	\$	3,698,052

Calculating 6904 Payments for Acquired Lands

In addition to the payments made for entitlement lands, DOI must distribute payments to local governments for land acquired by the federal government for the NPS and the National Forest Wilderness Areas. To be eligible, the land must have been subject to local real property taxes for the five years preceding acquisition. Unlike payments for entitlement land, these payments for acquired land are limited to the five years after the fiscal year in which the land is acquired.¹²

Payments for these lands are based on 1% of the fair market value of the lands at the time of acquisition but cannot exceed the amount of real property taxes levied on the property in the year before federal acquisition.¹³ Most of 6904 payments Arizona counties received in FY 2021 were directed to Pima County, which received \$44,622 for lands acquired for the Saguaro National Park.¹⁴

Role of Congressional Appropriations

Although a statutory formula determines the amount of PILT, the funding for these payments is subject to Congressional appropriation. Until FY 2007, PILT payments were discretionary, which means Congress could choose to fund or not fund the entire formula. For example, in FY 2007, Congress funded about 65% of authorized PILT payments. However, except for FYs 2016 and 2017, Congress has largely mandated full funding for authorized PILT payments since 2008. The Consolidated Appropriations Act of 2021 appropriated full funding for FY 2022 PILT.

Whether Congress had the authority to not fully fund the full amount of PILT has been the subject of litigation. After Congress partially funded payments in FYs 2015-2017, Kane County, Utah sued the Secretary of Interior arguing that it was entitled to full PILT funding under statute. The court noted that two sections of PILT statutes (6902 and 6903) use “shall” when describing the Secretary of Interior’s responsibility for making payments. By contrast, section 6906 originally stated that “[n]ecessary amounts may be appropriated to the Secretary of Interior to carry out this chapter” and that “[a]mounts are available only as provided in appropriation laws.” However, Congress then amended that section to state that “each county or other eligible unit of local government shall be entitled to payment” for FYs 2008-2014. The court concluded that the absence of language regarding appropriations for FYs 2015-2017 meant that—barring any future change—local government units are entitled to full PILT payment.¹⁵

¹¹ [31 U.S.C. § 6903\(c\)](#).

¹² [31 U.S.C. § 6904](#).

¹³ [43 C.F.R. § 44.31](#).

¹⁴ Office of Secretary, *Fiscal Year 2021 Payments in Lieu of Taxes*, (Washington, D.C.: U.S. Department of Interior), 24, <https://www.doi.gov/sites/doi.gov/files/2021-national-summary-pilt-508.pdf>.

¹⁵ *Kane County v. United States*, 135 Fed. Cl. 632 (2017). *Kane County v. United States*, 136 Fed. Cl. 644 (2018).

Distributing PILT

Within 90 days of receiving payments for acquired land, a general local government must distribute the funds proportionally to any school districts or single or special districts that are within its boundaries that will lose real property taxes because of the acquisition. The affected district may use the funds for any governmental purpose. The local government must distribute payments for acquired land in proportion to the tax revenues assessed and levied by the affected districts in the federal fiscal year before the land was acquired. Within 120 days of receiving payments, the local government must certify to DOI that it has made an appropriate distribution of funds.¹⁶

States may enact legislation requiring any PILT made to local governments be reallocated in whole or partially to other smaller units of general-purpose government, which:

- 1) Are located within the boundaries of the larger local government;
- 2) Provide general governmental services; and
- 3) Contain entitlement lands within their boundaries.

If a state enacts this legislation, the Secretary of the Interior would make a single aggregate payment to the state rather than individual payments to the state's local governments.¹⁷ Currently, only Wisconsin has enacted this legislation.¹⁸

Fiscal Impact of PILT

The fiscal impact of PILT for county governments depends on the composition of lands within each county. PILT generally represents a greater share of revenue for counties with higher percentages of qualifying lands and lower concentrations of urban growth. Specifically, as shown in Table 6, PILT constituted less than 0.5% of total government revenues for Maricopa, Pinal and Pima Counties. By contrast, in more rural counties, PILT can account for almost 8% of a county's total government revenue.

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¹⁶ [31 C.F.R. § 44.50](#).

¹⁷ [31 U.S.C. § 6907](#) and [31 C.F.R. § 44.53](#).

¹⁸ [Wis. Stat. § 20.370\(5\)\(dx\)](#).

Caselaw

Greenlee County v. United States, 487 F.3d 871 (2007).

Kane County v. United States, 135 Fed. Cl. 632 (2017).

Kane County v. United States, 136 Fed. Cl. 644 (2018).

Table 1. FY 2021 Payments In-Lieu of Taxes and Entitlement Acreage for Each State and Territory

Ranking	State/Territory	2021 Payment	Entitlement Acres
1	CALIFORNIA	\$55,900,858	43,701,194
2	COLORADO	\$43,113,164	23,699,226
3	UTAH	\$42,430,445	32,928,811
4	NEW MEXICO	\$42,139,967	22,369,666
5	ARIZONA	\$40,192,865	28,133,319
6	MONTANA	\$36,209,980	27,442,050
7	IDAHO	\$34,511,297	32,637,604
8	ALASKA	\$32,219,322	224,937,420
9	WYOMING	\$31,227,593	29,848,389
10	NEVADA	\$28,450,646	56,703,869
11	WASHINGTON	\$24,946,423	11,988,580
12	OREGON	\$24,480,634	31,321,144
13	ARKANSAS	\$7,753,179	3,254,899
14	SOUTH DAKOTA	\$7,366,173	2,819,914
15	FLORIDA	\$6,184,211	2,557,153
16	VIRGINIA	\$5,962,577	2,059,719
17	TEXAS	\$5,799,798	2,621,858
18	MICHIGAN	\$5,434,439	2,206,166
19	MINNESOTA	\$4,993,396	2,904,418
20	NORTH CAROLINA	\$4,921,576	1,703,399
21	MISSOURI	\$4,602,939	2,083,902
22	WISCONSIN	\$3,810,187	1,350,807
23	OKLAHOMA	\$3,577,625	1,490,583
24	WEST VIRGINIA	\$3,515,635	1,265,115
25	GEORGIA	\$3,062,800	1,275,891
26	KENTUCKY	\$2,884,029	1,254,541
27	TENNESSEE	\$2,716,634	1,266,497

Ranking	State/Territory	2021 Payment	Entitlement Acres
28	MISSISSIPPI	\$2,494,289	1,643,508
29	NEW HAMPSHIRE	\$2,125,916	776,438
30	NORTH DAKOTA	\$1,761,888	1,825,930
31	ALABAMA	\$1,513,755	801,836
32	ILLINOIS	\$1,456,785	508,051
33	LOUISIANA	\$1,357,987	759,380
34	KANSAS	\$1,319,304	549,767
35	SOUTH CAROLINA	\$1,311,190	802,344
36	PENNSYLVANIA	\$1,277,983	674,467
37	NEBRASKA	\$1,258,643	520,866
38	VERMONT	\$1,177,069	422,530
39	MAINE	\$743,889	210,603
40	OHIO	\$728,291	362,979
41	INDIANA	\$699,562	316,125
42	IOWA	\$548,997	191,459
43	HAWAII	\$415,612	137,981
44	NEW YORK	\$178,545	60,556
45	MARYLAND	\$126,726	42,764
46	MASSACHUSETTS	\$124,542	40,145
47	NEW JERSEY	\$117,302	40,775
48	VIRGIN ISLANDS	\$41,936	14,010
49	CONNECTICUT	\$34,790	12,169
50	DELAWARE	\$24,529	8,553
51	DISTRICT OF COLUMBIA	\$24,325	8,482
52	PUERTO RICO	\$10,934	26,689
53	GUAM	\$2,673	932
54	RHODE ISLAND	\$0	5

Source: Office of Secretary, *Fiscal Year 2021 Payments in Lieu of Taxes*, (Washington, D.C.: U.S. Department of Interior), 15, <https://www.doi.gov/sites/doi.gov/files/2021-national-summary-pilt-508.pdf>.

Table 2. Total Payments In-Lieu of Taxes to Arizona Counties, FY 2021

County	6902 payment	6904 payment	Total authorized PILT	99.9% proration for administration ¹	Adjustment for prior fiscal year ²	Total PILT paid
Apache	\$ 1,988,416	\$ 338	\$ 1,988,754	\$ 1,987,277	\$ 2	\$ 1,987,279
Cochise	\$ 2,412,059	\$ -	\$ 2,412,059	\$ 2,410,268	\$ 3	\$ 2,410,271
Coconino	\$ 2,620,430	\$ -	\$ 2,620,430	\$ 2,618,484	\$ 4	\$ 2,618,488
Gila	\$ 3,843,000	\$ -	\$ 3,843,000	\$ 3,840,146	\$ 6	\$ 3,840,152
Graham	\$ 3,106,349	\$ -	\$ 3,106,349	\$ 3,104,042	\$ 4	\$ 3,104,046
Greenlee	\$ 1,029,030	\$ -	\$ 1,029,030	\$ 1,028,266	\$ 1	\$ 1,028,267
La Paz	\$ 2,215,290	\$ -	\$ 2,215,290	\$ 2,213,645	\$ 3	\$ 2,213,648
Maricopa	\$ 3,502,010	\$ -	\$ 3,502,010	\$ 3,499,409	\$ 4	\$ 3,499,413
Mohave	\$ 3,863,387	\$ 299	\$ 3,863,686	\$ 3,860,817	\$ 5	\$ 3,860,822
Navajo	\$ 1,646,824	\$ 100	\$ 1,646,924	\$ 1,645,701	\$ 2	\$ 1,645,703
Pima	\$ 3,698,052	\$ 44,622	\$ 3,742,674	\$ 3,739,895	\$ 4	\$ 3,739,899
Pinal	\$ 1,482,107	\$ -	\$ 1,482,107	\$ 1,481,006	\$ 4	\$ 1,481,010
Santa Cruz	\$ 1,233,989	\$ -	\$ 1,233,989	\$ 1,233,073	\$ 2	\$ 1,233,075
Yavapai	\$ 3,668,379	\$ -	\$ 3,668,379	\$ 3,665,655	\$ 4	\$ 3,665,659
Yuma	\$ 3,868,000	\$ -	\$ 3,868,000	\$ 3,865,127	\$ 6	\$ 3,865,133
<i>Total</i>	<i>\$ 40,177,322</i>	<i>\$ 45,359</i>	<i>\$ 40,222,681</i>	<i>\$ 40,192,811</i>	<i>\$ 54</i>	<i>\$ 40,192,865</i>

Source: Office of Secretary, *Fiscal Year 2021 Payments in Lieu of Taxes*, (Washington, D.C.: U.S. Department of Interior), 24, <https://www.doi.gov/sites/doi.gov/files/2021-national-summary-pilt-508.pdf>.

- 1) The 2021 Consolidated Appropriations Act authorized the Department of Interior to retain up to \$400,000 for administering the PILT program, which was deducted from each state's payment ([Public Law 116-260, 134 Stat. 1496](#)).
- 2) The Department of Interior has underpayment/overpayment correction authority to defer minor administrative proration adjustment payments into the next fiscal year when issuing smaller payments would be an administrative burden. To that end, it made upward adjustments for minor changes in the administrative proration that were related to technical corrections in the previous year's PILT payment calculations.

Table 3. Entitlement Land Acreage in Arizona Counties, FY 2021

County	Bureau of Land Management	Forest Service	Bureau of Reclamation	National Park Service	U.S. Army Corps of Engineers	Fish & Wildlife Service	Total
Apache	94,507	493,253	0	105,068	0	0	692,828
Cochise	391,787	490,184	1,989	17,712	0	0	901,672
Coconino	610,620	3,254,392	30,025	826,425	0	0	4,721,462
Gila	63,956	1,701,146	5,034	1,120	0	0	1,771,256
Graham	717,944	381,333	496	0	0	0	1,099,773
Greenlee	156,233	749,601	0	0	0	0	905,834
La Paz	1,664,623	0	33,496	0	0	144,755	1,842,874
Maricopa	1,746,302	655,402	27,813	11	2,478	0	2,432,006
Mohave	4,767,003	4,663	312,372	1,311,757	640	34,293	6,430,728
Navajo	87,640	487,360	0	23,665	0	0	598,665
Pima	377,967	329,783	1,291	409,877	0	416,210	1,535,128
Pinal	375,347	219,042	16,894	472	0	0	611,755
Santa Cruz	13,330	419,221	0	358	0	0	432,909
Yavapai	607,659	1,984,686	7,145	728	0	0	2,600,218
Yuma	523,598	0	56,299	0	4,074	972,240	1,556,211
<i>Total</i>	<i>12,198,516</i>	<i>11,170,066</i>	<i>492,854</i>	<i>2,697,193</i>	<i>7,192</i>	<i>1,567,498</i>	<i>28,133,319</i>

Source: Office of Secretary, *Fiscal Year 2021 Payments in Lieu of Taxes*, (Washington, D.C.: U.S. Department of Interior), 214, <https://www.doi.gov/sites/doi.gov/files/2021-national-summary-pilt-508.pdf>.

Table 4. Population-Based Ceiling for 6902 PILT, FY 2021

County population	Per person payment	Population-based ceiling
5,000	\$193.39	\$966,950
6,000	\$181.11	\$1,086,660
7,000	\$170.53	\$1,193,710
8,000	\$158.26	\$1,266,080
9,000	\$147.67	\$1,329,030
10,000	\$135.33	\$1,353,300
11,000	\$131.88	\$1,450,680
12,000	\$128.36	\$1,540,320
13,000	\$123.08	\$1,600,040
14,000	\$119.57	\$1,673,980
15,000	\$116.02	\$1,740,300
16,000	\$114.28	\$1,828,480
17,000	\$112.49	\$1,912,330
18,000	\$110.76	\$1,993,680
19,000	\$109.01	\$2,071,190
20,000	\$107.30	\$2,146,000
21,000	\$105.49	\$2,215,290
22,000	\$103.73	\$2,282,060
23,000	\$103.73	\$2,385,790
24,000	\$101.98	\$2,447,520
25,000	\$100.23	\$2,505,750
26,000	\$98.46	\$2,559,960
27,000	\$98.46	\$2,658,420
28,000	\$98.46	\$2,756,880
29,000	\$96.73	\$2,805,170
30,000	\$96.73	\$2,901,900
31,000	\$94.95	\$2,943,450
32,000	\$94.95	\$3,038,400
33,000	\$93.17	\$3,074,610
34,000	\$93.17	\$3,167,780
35,000	\$91.40	\$3,199,000
36,000	\$91.40	\$3,290,400
37,000	\$89.65	\$3,317,050
38,000	\$89.65	\$3,406,700
39,000	\$87.93	\$3,429,270
40,000	\$87.93	\$3,517,200
41,000	\$86.13	\$3,531,330
42,000	\$84.41	\$3,545,220
43,000	\$84.41	\$3,629,630
44,000	\$82.61	\$3,634,840
45,000	\$82.61	\$3,717,450
46,000	\$80.89	\$3,720,940
47,000	\$80.89	\$3,801,830
48,000	\$79.13	\$3,798,240
49,000	\$79.13	\$3,877,370
50,000	\$77.36	\$3,868,000

Source: Office of Secretary, *Fiscal Year 2021 Payments in Lieu of Taxes*, (Washington, D.C.: U.S. Department of Interior), 14, <https://www.doi.gov/sites/doi.gov/files/2021-national-summary-pilt-508.pdf>.

Table 5. Calculating 6902 Payments for Arizona Counties, FY 2021

County	Entitlement acreage	Population (for calculating ceiling)	Population-based ceiling	Standard rate				Minimum provision			Basis for 6902 payment
				Acreage funding (\$2.87 per acre)	Exceeds population ceiling?	Federal revenue sharing payments	Result	Acreage funding (\$0.41 per acre)	Exceeds population ceiling?	Result	
Apache	692,828	50,000+	\$3,868,000	\$1,988,416	NO	-	\$1,988,416	\$284,059	NO	\$284,059	STANDARD RATE
Cochise	901,672	50,000+	\$3,868,000	\$2,587,799	NO	\$175,740	\$2,412,059	\$369,686	NO	\$369,686	STANDARD RATE
Coconino	4,721,462	50,000+	\$3,868,000	\$13,550,596	YES	\$1,247,570	\$2,620,430	\$1,935,799	NO	\$1,935,799	STANDARD RATE
Gila	1,771,256	50,000+	\$3,868,000	\$5,083,505	YES	\$25,000	\$3,843,000	\$726,215	NO	\$726,215	STANDARD RATE
Graham	1,099,773	39,000	\$3,429,270	\$3,156,349	NO	\$50,000	\$3,106,349	\$450,907	NO	\$450,907	STANDARD RATE
Greenlee	905,834	9,000	\$1,329,030	\$2,599,744	YES	\$300,000	\$1,029,030	\$371,392	NO	\$371,392	STANDARD RATE
La Paz	1,842,874	21,000	\$2,215,290	\$5,289,048	YES	-	\$2,215,290	\$755,578	NO	\$755,578	STANDARD RATE
Maricopa	2,432,006	50,000+	\$3,868,000	\$6,979,857	YES	\$365,990	\$3,502,010	\$997,122	NO	\$997,122	STANDARD RATE
Mohave	6,430,728	50,000+	\$3,868,000	\$18,456,189	YES	\$4,613	\$3,863,387	\$2,636,598	NO	\$2,636,598	STANDARD RATE
Navajo	598,665	50,000+	\$3,868,000	\$1,718,169	NO	\$71,345	\$1,646,824	\$245,453	NO	\$245,453	STANDARD RATE
Pima	1,535,128	50,000+	\$3,868,000	\$4,405,817	YES	\$169,948	\$3,698,052	\$629,402	NO	\$629,402	STANDARD RATE
Pinal	611,755	50,000+	\$3,868,000	\$1,755,737	NO	\$273,630	\$1,482,107	\$250,820	NO	\$250,820	STANDARD RATE
Santa Cruz	432,909	46,000	\$3,720,940	\$1,242,449	NO	\$8,460	\$1,233,989	\$177,493	NO	\$177,493	STANDARD RATE
Yavapai	2,600,218	50,000+	\$3,868,000	\$7,462,626	YES	\$199,621	\$3,668,379	\$1,066,089	NO	\$1,066,089	STANDARD RATE
Yuma	1,556,211	50,000+	3,868,000	\$4,466,326	YES	-	\$3,868,000	\$638,047	NO	\$638,047	STANDARD RATE

Source: House Research staff analysis of Office of Secretary, *Fiscal Year 2021 Payments in Lieu of Taxes*, (Washington, D.C.: U.S. Department of Interior), 119, <https://www.doi.gov/sites/doi.gov/files/2021-national-summary-pilt-508.pdf>.

**Table 6. County Entitlement Acreage and PILT Payments
Relative to Total Acreage and Government Revenues, FY 2020**

County	Entitlement acreage ¹	Total acreage ²	Percent of lands	Total PILT ¹	Total government revenues ³	Percent of total government revenues
Apache	692,708	7,166,906	10%	\$ 1,959,143	\$ 48,285,989	4.06%
Cochise	901,672	3,974,234	23%	\$ 2,375,382	\$ 118,756,025	2.00%
Coconino	4,721,317	11,914,448	40%	\$ 2,627,482	\$ 155,631,728	1.69%
Gila	1,771,651	3,044,686	58%	\$ 3,780,619	\$ 67,174,098	5.63%
Graham	1,099,773	2,957,997	37%	\$ 3,060,027	\$ 38,664,720	7.91%
Greenlee	905,834	1,178,970	77%	\$ 1,007,833	\$ 21,830,944	4.62%
La Paz	1,848,763	2,877,797	64%	\$ 2,179,610	\$ 36,534,994	5.97%
Maricopa	2,435,186	5,889,138	41%	\$ 3,419,435	\$ 2,463,156,019	0.14%
Mohave	6,421,734	8,532,542	75%	\$ 3,800,773	\$ 177,481,815	2.14%
Navajo	598,769	6,367,664	9%	\$ 1,620,937	\$ 82,089,906	1.97%
Pima	1,534,568	5,880,752	26%	\$ 3,654,638	\$ 1,188,854,000	0.31%
Pinal	618,479	3,434,265	18%	\$ 1,460,786	\$ 351,496,000	0.42%
Santa Cruz	432,909	791,194	55%	\$ 1,193,858	\$ 55,147,818	2.16%
Yavapai	2,599,597	5,198,630	50%	\$ 3,582,164	\$ 227,354,606	1.58%
Yuma	1,555,964	3,528,851	44%	\$ 3,805,600	\$ 346,987,654	1.10%

1) Office of Secretary, *Fiscal Year 2020 Payments in Lieu of Taxes*, (Washington, D.C.: U.S. Department of Interior), 24 and 214,
<https://www.doi.gov/sites/doi.gov/files/uploads/fiscal-year-2020-payments-in-lieu-of-taxes-national-summary-annual-report.pdf>.

2) RAND State Statistics, accessed February 27, 2022, <https://randstatestats.org/index.php>.

3) Calculated as the sum of total primary government program revenues and total general revenues for each county based on information reported in its fiscal year 2020 annual comprehensive finance report. Revenues derived from component units were excluded.



(A.R.S. § 16-1019)

A political sign may *not* be removed, altered, defaced or covered by a city, town or county if the sign:

- 1) Is placed in a public right-of-way that is controlled or owned by that jurisdiction;
- 2) Supports or opposes a candidate for public office or a ballot measure;
- 3) Is not placed in a location that obstructs clear vision in the area, is hazardous to public safety or interferes with the requirements of the Americans with Disabilities Act;
- 4) Is placed in a location zoned for residential use and has a maximum area of 16 square feet or is placed in any other area and has a maximum of 32 square feet; and
- 5) Contains the name and website address or telephone number of the campaign committee contact person or the candidate.

If the above requirements for a political sign are met, it may not be removed, altered, defaced or covered by a city, town or county only during the period beginning 71 days before a primary election and ending 15 days after the general election. If a candidate does not advance to the general election, the period ends 15 days after the primary election.

A political sign may not be removed, altered, defaced or covered by a city, town or county if the above requirements are met, but *does not* apply to commercial tourism, resort and hotel sign free zones. These zones are designated by municipalities and not more than two zones may be identified within a municipality. The total area of these zones may not be larger than three square miles. Each zone must be identified as a specific contiguous area where the municipality has determined that the placement of political signs within the rights-of-way will detract from the aesthetic appeal of the area and deter its appeal to tourists based on a predominance of commercial tourism, resort and hotel uses.

Current statute outlines a class 2 misdemeanor if a person knowingly removes, defaces, alters or covers any political sign for the period beginning 45 days before a primary election and ending 15 days after the general election. The exception for this time period is for a sign for a candidate in a primary election who does not advance to the general election; this time period ends 15 days after the primary election. The political signs included in this penalty are signs for any candidate for public office or in support of or opposition to any ballot measure, issue or question. The class 2 misdemeanor penalty also includes knowingly altering, defacing or removing any political handouts, mailers, flyers or other printed materials of a candidate or in support of or opposition to any ballot measure, issue or question that are hand delivered to a residence.

The penalties do not apply to the removal, alteration, defacing or covering of a political sign or other printed materials by the following people:

- 1) The authorized agent of the candidate or the candidate in support of whose election materials or signs were placed;
- 2) A person authorized by the committee in support of or opposition to a ballot question, measure or issue that provided the printed materials or signs; or

- 3) The authorized agent of the owner or owner of the private property on which the printed materials or signs are placed with or without permission of the owner or placed in violation of state law or city, town or county ordinance or regulation.

The city, town or county is authorized to immediately relocate a sign if the jurisdiction determines that the placement of a political sign constitutes an emergency. After the sign is relocated, the jurisdiction must notify the campaign committee or candidate within 24 hours of the relocation. A jurisdiction may remove a political sign if the sign remains in violation of statute at least 24 hours after the city, town or county has notified the campaign committee or candidate of the violation. The campaign committee contact, or candidate is allowed to retrieve the sign without a penalty within 10 business days while the jurisdiction retains the sign that has been removed.

Any employee of a city, town or county is not liable for an injury caused by the failure to remove a sign if the person is acting within the scope of the employee's employment, unless the employee was grossly negligent or intended to cause injury.

A city, town or county is authorized to prohibit the installation of a sign on any structure that is owned by that jurisdiction.

This section of statute does not apply to state routes or highways, or the overpasses over those state routes or highways.

Knowingly: "With respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or believes that the person's conduct is of that nature or that the circumstance exists. It does not require any knowledge of the unlawfulness of the act or omission." ([A.R.S. § 13-105](#))

Property Tax Overview

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Arizona property is taxed based on its use unless constitutionally exempted ([Article 9, Sections 2, 2.1 and 2.2](#)) and is subject to two types of property tax:

- 1) Primary – for maintenance and operation of the taxing jurisdiction; or
- 2) Secondary – for bonded indebtedness, voter-approved budget overrides and special districts.

There is no property tax at the state level (state property tax was repealed in 1996). The owner of record or the purchaser under a deed, deed of trust or other conveyance of ownership is liable for the payment of the property tax.

Two types of property are taxed:

- 1) Real Property – land, buildings and improvements to land; and
- 2) Business Personal Property – office furniture, business equipment and tools used for business purposes.

Valuation of the taxed property is divided between:

- 1) The Department of Revenue – centrally assessed properties:
 - a) Mines, mills and smelters ([ARS § 42-14051](#));
 - b) Oil, gas and geothermal ([ARS § 42-14101](#));
 - c) Gas, water, electric and sewer and wastewater utilities ([ARS § 42-14151](#));
 - d) Pipelines ([ARS § 42-14201](#));
 - e) Airline ([ARS § 42-14251](#));
 - f) Private car companies ([ARS § 42-14301](#));
 - g) Railroad companies ([ARS § 42-14351](#));
 - h) Telecommunications companies ([ARS § 42-14401](#));
 - i) Airport fuel delivery companies ([ARS § 42-14501](#)); and
- 2) County Assessors – all other properties.

Property is statutorily divided into nine legal classes based on its use:

Class	Assessment Ratio	Use
1	17.5% (reduces .5% until at 16%)	Commercial and industrial: mines, utilities, telecommunication companies, standing timber, airport fuel delivery, producing oil and gas, pipelines, shopping centers, manufacturing (ARS § 42-12001)
2	15%	Agricultural, non-profit, vacant land (ARS § 42-12002)
3	10%	Primary residential (ARS § 42-12003)
4	10%	Non-primary residential, residential rental (ARS § 42-12004)
5	15%	Airlines, railroad, private car company (ARS § 42-12005)
6	5%	Noncommercial historical, foreign trade zone, military reuse zone, enterprise zone, qualified environmental technology manufacturing facility (ARS § 42-12006)
7	18% or 1%	Historical commercial and industrial (ARS § 42-12007 and ARS § 42-12101)
8	10% or 1%	Historical non-primary residential, residential rental (ARS § 42-12008 and ARS § 42-12101)
9	1%	Improvements on federal, state, county and municipal (ARS § 42-12009)

There are two bases for valuation of Arizona property which is subject to property tax levies:

- 1) Full Cash Value (FCV) – Valued by statute or based upon fair market value. There are no annual limitations on FCV growth; and
- 2) Limited Property Value (LPV) – Valued by state constitution and statute. There is a 5% annual limitation on LPV growth. LPV is the basis for levying primary and secondary property tax except locally assessed personal property and centrally valued property. LPV must be less than or equal to FCV.

A property's assessed value equals the FCV and LPV multiplied by the assessment ratio of the applicable property class. The Net Assessed Value (NAV) equals the properties assessed value minus any applicable exemptions. (See exemptions in [Article 9, Sections 2, 2.1 and 2.2 of the AZ Constitution](#)).

The tax liability is obtained by multiplying the NAV by the tax rate, on each \$100 of NAV, in each taxing jurisdiction [\(ARS § 42-17151\)](#).

Property taxes are due and payable, with one exception, in $\frac{1}{2}$ portions on October 1 and March 1 of the following year. The taxes become delinquent on November 1 and the following May 1. The exception occurs when the entire property tax amount due is \$100 or less [\(ARS § 42-18052\)](#).

School Safety Program

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Established in 1995, the School Safety Program (Program) is a competitive, state-funded grant that provides funding to school districts and charter schools for costs associated with placing school resource officers (SROs), juvenile probation officers (JPOs), school counselors and school social workers on school grounds. A school district or charter school may submit a Program proposal to the Arizona Department of Education (ADE) to participate in the Program. If a Program proposal is approved by the State Board of Education (SBE), ADE distributes Program monies to support associated costs.

Statute establishes the Program within ADE to support, promote and enhance safe and effective learning environments for all students ([A.R.S. 15-154](#)). As originally established in 1995, the Program provided state-level funding to school districts and charter schools to support the costs of placing SROs and JPOs. However, [Laws 2019, Chapter 265](#) expanded the Program to include school counselors and social workers.

School counselors and social workers funded by the Program must be certified by ADE. SROs must be sworn law enforcement officers. In addition to maintaining a physical presence on school grounds, SROs provide students and staff with law-related education (LRE) instruction and training. The [School Safety Program Guidance Manual](#) provides information on Program requirements, descriptions of LRE and other resources for participants.

Currently, the Program operates in three-year cohorts: a school district or charter school may apply to participate for up to three fiscal years by submitting a Program proposal to ADE. Statute outlines what these Program proposals must include, which vary according to the position for which the school is applying.

To receive funding, each school district governing board and charter school governing body must adopt and enforce policies for school personnel to report any suspected crimes or serious offenses that occur on school grounds. School districts and charter schools that do not maintain these policies are ineligible for Program monies ([A.R.S. 15-153](#)).

After the Program proposals are reviewed by both ADE and SBE and approved by SBE, ADE may distribute Program monies to eligible schools. Schools have until August 1 to fill the positions for which they were awarded monies. Statute requires ADE to evaluate the effectiveness of the Program and submit a report to the Governor, President of the Senate and the Speaker of the House of Representatives by November 1 annually.

The Officer Craig Tiger Act

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Overview

The Officer Craig Tiger Act¹ (Act) requires the state of Arizona or an Arizona political subdivision to establish a program that provides public safety employees, peace officers and firefighters up to 12 paid visits of licensed counseling if they are exposed to certain events while in the course of their duty. Additionally, statute permits the counseling to be provided in-person or via telemedicine.

Public Safety Employees²

Statute defines a public safety employee as an individual who is a member of either the Public Safety Personnel Retirement System (PSPRS) or Corrections Officer Retirement Plan (CORP), or who is an Arizona probation officer, surveillance officer or juvenile detention officer.

To qualify for the provisions in the Act, public safety employees must have been exposed to any of the following events while in the course of duty:

- 1) visually witnessing the death or maiming or the immediate aftermath of the death or maiming of at least one person;
- 2) responding to or being directly involved in a criminal investigation of an offense involving a dangerous crime against children; or
- 3) requiring rescue in the line of duty where one's life was endangered.

For public safety employees, statute defines licensed counseling as counseling provided by a licensed individual who specializes in trauma and crisis, who uses evidenced-based treatment options and is one of the following;

- 1) A licensed psychiatrist;
- 2) A licensed psychologist;
- 3) A licensed mental health professional who holds either a master's or doctoral degree related to the mental health profession;
- 4) A licensed mental health nurse practitioner or a licensed psychiatric clinical nurse specialist; or
- 5) A licensed physician assistant.

Peace Officers and Firefighters³

To qualify for the provisions in the Act, peace officers and firefighters must have been exposed to any of the following events while in the course of duty:

- 1) any event listed above for a public safety employee;
- 2) using deadly force or being subjected to use deadly force in the line of duty regardless of whether the peace officer or firefighter was physically injured;
- 3) witnessing the death of another peace officer or firefighter while engaged in the line of duty; or
- 4) responding to or being directly involved in an investigation regarding the drowning or near-drowning of a child.

In instances where a licensed mental health professional determines that a peace officer or firefighter (employee) needs additional counseling services beyond the 12 visits initially provided, the employer is required pay for up to 24 additional visits. These additional visits are granted if

¹ [Laws 2018, Chapter 259](#)

² [A.R.S. § 38-672](#)

³ [A.R.S. § 38-673](#)

they are likely to improve the employee's condition and if the visits occur within one year after the employee's first visit. Furthermore, if a licensed mental health professional determines that an employee is not fit for duty while receiving treatment, the employer is required to ensure the employee has no loss of pay and benefits for up to 30 calendar days per incident after the date the mental health professional determines the employee is not fit for duty. However, the following must occur:

- 1) the employee is unable to work light duty or the employer does not offer a light-duty option;
- 2) the employee has exhausted sick leave, vacation leave or other leave that is offered;
- 3) the employer offered and the employee elected to receive short-term disability benefits, but the employee is not eligible to receive these benefits; and
- 4) the employer does not have a supplemental program that provides pay and benefits after an injury.

Finally, an employer is prohibited from requiring an employee receiving treatment to use accrued vacation, sick or personal leave if the employee leaves work to receive treatment under the program.

For peace officers and firefighters, statute defines licensed counseling as counseling provided by a licensed individual who specializes in trauma and crisis, who uses evidenced-based treatment options and is one of the following;

- 1) A licensed psychiatrist;
- 2) A licensed psychologist;
- 3) A licensed mental health professional who holds either a master's or doctoral degree related to the mental health profession; or
- 4) A licensed mental health nurse practitioner or a licensed psychiatric clinical nurse specialist.

Data Collection

Statute requires the Arizona Department of Administration to compile relevant data annually by October first each year for employees receiving the counseling services. Data is then disseminated to the chairpersons of the House and Senate committees, the Governor, President of the Senate and Speaker of the House of Representatives.

Officer Craig Tiger

Officer Craig Tiger was a former Phoenix police officer who had post-traumatic stress disorder (PTSD) caused by a 2012 on-duty shooting incident. While also suffering from PTSD, Officer Tiger simultaneously experienced his mother's loss and a divorce from his wife.

Exactly one year after the 2012 shooting, Officer Tiger was pulled over on suspicion of DUI. He admitted to being suicidal, thus ordered to inpatient treatment. After the initial 30-day treatment, Officer Tiger's insurance stopped covering his counseling services. Shortly thereafter, he was terminated as a Phoenix police officer.

On November 6th, 2014, Officer Tiger was found dead in his car of an apparent drug overdose. Since his death, officers receive more mental health services and resources.

Transaction Privilege Tax Overview

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Transaction privilege tax (TPT) is different than a sales tax as follows:

- 1) It taxes a business on gross receipts rather than individual sales; and
- 2) It is levied on a seller/vendor, not the end purchaser/user, even though the seller is allowed to pass on the amount of the tax to the purchaser. This is an important distinction because it means the tax may apply to transactions with the federal government (a tax directly levied on the US government would be unconstitutional).

What is often called “TPT” is a collection of three separate categories of taxes:

- 1) State TPT;
- 2) County excise taxes, which may include taxes to support county general funds, transportation, jail operations, capital projects, and public health services; and
- 3) Municipal privilege taxes levied by cities and towns. Includes the Rio Nuevo Tax Increment Financing (TIF) district.

A common misconception is that TPT only applies to the sale of goods. This is incorrect. Arizona's TPT is levied on the following classifications:

Classification	Arizona Revised Statute	Overview – The business of:
Retail	42-5061	selling tangible personal property at retail
Transporting	42-5062	transporting for hire persons, freight or property by motor vehicle, railroads or aircraft from one point to another point in Arizona
Utilities	42-5063	1. producing and furnishing or furnishing to consumers natural or artificial gas and water 2. providing to retail electric customers ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity
Telecommunications	42-5064	providing intrastate telecommunications services
Publication	42-5065	publishing newspapers, magazines or other periodicals and publications if published in Arizona
Job Printing	42-5066	job printing, engraving, embossing and copying
Pipeline	42-5067	operating pipelines for transporting oil or natural or artificial gas through pipes or conduits from one point to another point in Arizona

Private Car Line	42-5068	operating a private car company, as statutorily defined from one point to another point in Arizona
Commercial Lease	42-5069	leasing for a consideration the use or occupancy of real property
Transient Lodging	42-5070	operating, for occupancy by transients, a hotel or motel, or other similar structure, including a space, lot or slab that is occupied or designed for occupancy by transients in a mobile home or house trailer
Personal Property Rental	42-5071	leasing or renting tangible personal property for a consideration
Mining	42-5072	mining, quarrying or producing for sale, profit or commercial use any nonmetalliferous mineral product that has been mined, quarried or otherwise extracted within the boundaries of Arizona
Amusement	42-5073	operating or conducting theaters, movies, operas, exhibitions, concerts, carnivals, circuses, amusement parks, fairs, races, contests, games, billiard or pool parlors, bowling alleys, public dances, dance halls, boxing and wrestling matches, skating rinks, tennis courts, except as outlined in statute; video games, pinball machines or sports events or any other business charging admission or user fees for exhibition, amusement or entertainment, including the operation or sponsorship of events by the tourism and sports authority
Restaurant and Bar	42-5074	operating restaurants, dining cars, dining rooms, lunchrooms, mobile food units, lunch stands, soda fountains, catering services or similar establishments where articles of food or drink are sold for consumption on or off the premises.
Prime Contracting	42-5075	prime contracting and the business of manufactured building dealer.
Online Lodging Marketplace	42-5076	operating an online lodging marketplace.

The state and counties share the same tax base in state statute. The cities, on the other hand, have a separate and independent tax code in the Model City Tax Code (MCTC). The MCTC is not uniform to the state and county code, nor is it uniform between city codes, as it authorizes cities to exempt or tax certain items that are not part of the "model"

language through the adoption of "local" and "model" options. Prior to the "Wayfair law," the cities' retail base in the MCTC varied from state statute. However, the Wayfair legislation preempted the cities on Retail, with the exception of a few options.

Many TPT deductions, exemptions and exclusions prevent the tax from applying to transactions that involve certain types of property, sellers, purchasers, or scenarios. Notable examples include:

- 1) Sales for resale and wholesale sales.
- 2) Sales of machinery or equipment used directly in manufacturing and processing.
- 3) Sales by 501(c)(3) organizations.
- 4) Sales to qualifying hospitals and health care organizations.

Use tax is "complementary" to TPT, in that the tax has traditionally applied to tangible personal property used in Arizona but has not been subject to Arizona tax, usually because it was purchased or acquired outside the state.

- 1) Use tax applies only to either tangible personal property that would have been subject to retail TPT if the seller had sufficient nexus with Arizona, but on which no Arizona TPT has been paid. It is offset by any other state's sales tax that might have been imposed on the sale;
- 2) Use tax is levied on the Arizona purchaser who is using, consuming, or storing personal property in this state. It is (now) only in rare instances that a seller is liable to collect Arizona use tax on behalf of the purchaser; and
- 3) Use tax is levied at the state and by many municipalities. There is no county use tax.

Laws 2019, Chapter 273 ([HB 2757](#)), which became effective on October 1, 2019. Commonly known as the "Wayfair bill," the measure authorized Arizona to impose retail TPT on more online sales. The "Wayfair" legislation:

- 1) Allowed retail transactions made by out-of-state or remote sellers and marketplace facilitators (businesses that market and process payments for third party sellers) to be subject to retail TPT if annual sales to Arizona purchasers exceed certain dollar thresholds (an economic nexus threshold test); and
- 2) Required the MCTC related to the taxation of retail sales to be superseded by the state's TPT statutes for the retail classification.

Many of these sales previously were subject to use tax that taxing authorities would have to rely on Arizona purchasers to voluntarily pay.

Traffic Survival School

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Traffic survival school (TSS) is defined as a school that offers educational sessions to drivers who are required to attend and successfully complete educational sessions that are designed to improve the safety and habits of drivers and that are approved by ADOT ([A.R.S. § 28-101](#)).

Discretionary TSS Assignment - Driver Point Assessment

Pursuant to [A.R.S. § 28-3306\(A\)\(3\)](#) and [A.A.C. R17-4-404](#), ADOT assigns points to a driver for traffic violations that result in a conviction or judgement. If a person is assessed eight or more points on their driving record within a 12-month period without having attended and completed TSS within the previous 24 months, the person is required to attend and successfully complete TSS. Failure to attend and successfully compete TSS within 60 days after the order of assignment will result in a 6-month suspension of the person's driving privilege. A driver who accumulates an excessive amount of points shall have their driving privilege suspended as follows:

- 1) A 3-month suspension for accumulation of 8 to 12 points in a 12-month period if a traffic survival school course was successfully completed in the previous 24-month period;
- 2) A 3-month suspension for accumulation of 13 to 17 points in a 12-month period;
- 3) A 6-month suspension for accumulation of 18 to 23 points in a 12-month period; or
- 4) A 12-month suspension for accumulation of 24 or more points in a 36-month period.

Driver Point Assessment	
Violation (resulting in a conviction or judgement)	Points
DUI, Extreme DUI or Aggravated DUI (A.R.S. §§ 28-1381, 28-1382, 28-1383)	8
Reckless or Aggressive Driving (A.R.S. §§ 28-693, 28-695)	8
Racing on highways (A.R.S. § 28-708)	8
Failure to perform required duties after an accident (A.R.S. §§ 28-662, 28-663, 28-664, 28-665)	6
Failure to stop or yield resulting in an accident causing death (A.R.S. § 28-672)	6
Failure to stop or yield resulting in an accident causing serious physical injury (A.R.S. § 28-672)	4
Reasonable and prudent speed (A.R.S. § 28-701)	3
Driving over, across, or parking in any part of a gore area (A.R.S. § 28-644)	3
All other traffic regulations that govern a vehicle moving under its own power	2
<i>A list of traffic violations that result in the assessment of points can be found here.</i>	

Mandatory TSS Assignment

A person must attend and successfully complete TSS for the following violations:

- 1) Red-light or Flashing Red-light Signal Violation ([A.R.S. §§ 28-645, 28-647](#));
- 2) Wrong-way or Aggressive Driving ([A.R.S. §§ 28-694, 28-695](#));
- 3) DUI, Extreme DUI or Aggravated DUI ([A.R.S. §§ 28-1381, 28-1382, 28-1383](#));
- 4) A moving violation by persons under 18 years at the time of the violation ([A.R.S. § 28-3321](#));

- 5) Committed an offense in another jurisdiction that if committed in Arizona is grounds for suspension or revocation ([A.R.S. § 28-3303](#)); and
- 6) Causing serious physical injury or death by the following ([A.R.S. § 28-672](#)):
 - a) Red light violation ([A.R.S. § 28-645](#));
 - b) Highway work zone safety violation ([A.R.S. § 28-710](#));
 - c) Laned Roadway Driving Violation ([A.R.S. § 28-729](#));
 - d) Failing to yield the right-of-way at an intersection ([A.R.S. §§ 28-771, 28-772, 28-773](#));
 - e) Failing to yield the right-of-way to a pedestrian at a crosswalk ([A.R.S. § 28-792](#));
 - f) Failing to exercise due care with any pedestrian on any roadway ([A.R.S. § 28-794](#));
 - g) School Crossing Violation ([A.R.S. § 28-797\(F\)\(G\)\(H\) or \(I\)](#));
 - h) Stop Sign Violation ([A.R.S. § 28-855\(B\)](#));
 - i) School Bus Stop Sign Violation ([A.R.S. § 28-857\(A\)](#)); or
 - j) Wireless Communication Device Violation ([A.R.S. § 28-914](#)).

Pursuant to [A.R.S. § 28-3306](#), ADOT may require a person to attend and successfully complete TSS with sufficient evidence that the person:

- 1) Committed an offense for which mandatory revocation of the license is required on conviction;
- 2) Was involved in an accident resulting in death, personal injury or serious property damage;
- 3) Is convicted of or adjudged to have violated traffic regulations with such frequency that indicates a disrespect for traffic laws and the safety of other persons on the highway;
- 4) Has been convicted of reckless driving ([A.R.S. § 28-693](#)) or is a habitually reckless or negligent driver;
- 5) Is medically, psychologically or physically incapable of operating a motor vehicle and, based on law enforcement, medical or other ADOT information, the continued operation of a motor vehicle by the person would endanger the public health, safety and welfare;
- 6) Has committed or permitted an act involving an unlawful or fraudulent use of the license;
- 7) Has committed an offense in another jurisdiction that if committed in Arizona is grounds for suspension or revocation; or
- 8) Has been convicted of a DUI ([A.R.S. § 28-1381](#)), Extreme DUI ([A.R.S. § 28-1382](#)) or an ignition interlock device violation ([A.R.S. § 28-1464](#)).

Failure to attend and successfully complete TSS upon assignment will result in suspension of the person's driving privilege until the TSS requirement is met.

Unclaimed Property



Unclaimed property is tangible and intangible property that is presumed abandoned after a set period time has passed without owner contact and a "good faith" effort has been made to locate the owner. Unclaimed property includes intangible personal property such as traveler's checks, money orders, stocks, principal on debt, demand or savings deposits, customer credits, insurance settlements, property received or held by a court, wages, retirement accounts, and other miscellaneous types of property that are presumed abandoned according to the schedule set out in statute.¹ Unclaimed property also includes tangible property that is held in a safe deposit box or any other safekeeping depository that is presumed abandoned if the property remains unclaimed for three years after the expiration of the lease or rental period on the box.²

Abandoned property is held by various *holders* which include banks, corporations, credit unions, utilities, insurance companies and governmental entities. A holder may charge a dormancy charge to the owner of any abandoned property by reason of the owner's failure to claim the property within a specified period of time pursuant to a written contract between the holder and the owner.³

The holding period before property is considered unclaimed varies by property type. When a holding period expires, a holder must transfer the abandoned property to the Arizona Department of Revenue (DOR). DOR serves as the custodian of all unclaimed property and administers the Unclaimed Property Unit to collect and distribute property to the legal owners.⁴ In order for property to be deemed unclaimed and under the custody of DOR, any of the following must apply:

- 1) The holder's records show that the last known address of the apparent owner is in Arizona;
- 2) The holder's records do not reflect the identity and the last known address of the apparent owner is in Arizona
- 3) The holder's records do not reflect the last known address of the owner and it is established that:
 - a) The last known address of the person entitled to the property is in Arizona; or
 - b) The holder is domiciled in Arizona or is a government or governmental agency of Arizona;
- 4) The last known address of the apparent owner is in a state that does not provide for the custodial taking of the property and the holder is domiciled in Arizona or is a government or governmental agency of Arizona;
- 5) The last known address of the apparent owner is in a foreign nation and the holder is domiciled in Arizona or is a government or governmental agency of Arizona;
- 6) The transaction out of which the property arose occurred in Arizona, the holder is domiciled in a state that does not provide for the custodial taking of the property and the last known address of the apparent owner is unknown; or

¹ [A.R.S. § 44-302](#)

² [A.R.S. § 44-303](#)

³ [A.R.S. § 44-305](#)

⁴ [DOR, Unclaimed Property Unit](#)

- 7) The property is a traveler's check or money order that was purchased in Arizona.⁵

Reporting of Abandoned Property

A holder of abandoned property is required to submit a report to DOR concerning the property. A life insurance company that is a holder of abandoned property must file a report before May 1, and the report must include any abandoned property from the prior calendar year. Any other holder of abandoned property must file a report before November 1 and the report must include any abandoned property from the last 12 months before July 1 of that year. The report is required to contain the following:

- 1) A description of the property;
- 2) Except for a traveler's check or money order, the name, the last known address and the social security number or taxpayer identification number of the apparent owner of property with a value of at least \$50;
- 3) An aggregate number of items with a value of less than \$50 each;
- 4) For an amount of at least \$50 held or owing under an annuity or a life insurance policy, the full name and last known address of the annuitant or insured and of the beneficiary;
- 5) For property held in a safe deposit box or any other safekeeping depository, an indication of the place where it is held and where it may be inspected by DOR and any amount that is owed to the holder; and
- 6) The date, if any, on which the property became payable, demandable or returnable and the date of the last transaction with the apparent owner of the property.

Prior to 120 days before a holder files a report, the holder must send a written notice to the apparent owner that states that the holder is in possession of the property if all of the following apply:

- 1) The holder has an address in their records for the apparent owner and the records do not indicate that the address is inaccurate;
- 2) The claim of the apparent owner is not barred by any other law of this state; and
- 3) The value of the property is at least \$50 dollars.⁶

Upon payment or delivery of property to DOR, the state assumes custody and responsibility for the safekeeping of the property and the holder is relieved of all liability that arises after the payment or delivery.⁷

Notice of Abandoned Property

DOR must publish a notice of unclaimed property at least semiannually with a toll-free telephone number and directions to the Unclaimed Property Unit's website. Additionally, DOR is required to publish the notice in a newspaper in each county and publish it anywhere, including social media, that will likely attract the attention of the apparent owner.

Additionally, DOR is required to annually publish the estimated total dollar amount of unclaimed property on their unclaimed property website. For FY 2020, DOR reports that the total value of unclaimed property is \$1,534,930,705.

⁵ [A.R.S. § 44-304](#)

⁶ [A.R.S. § 44-307](#)

⁷ [A.R.S. § 44-310](#)

Interest Bearing Unclaimed Property

Arizona law provides that a holder may not cease payment of interest on an interest bearing demand, savings or time deposit unless all of the following conditions apply:

- 1) The holder and the owner of the property have a written contract that allows the holder to impose the charges or cease payment of interest;
- 2) For property that is more than \$2, no more than three months before the cessation of interest the holder gave written notice to the owner that stated that interest would cease; and
- 3) The holder regularly ceases payment of interest and does not regularly retroactively credit interest on that type of property.

If DOR receives any property other than money, DOR must provide the owner with any income or gain realized or accruing on the property at or before the property is liquidated or converted to money. If the property delivered to DOR is an interest bearing demand, savings or time deposit, DOR is required to pay the interest at the legal rate or any lesser rate that the property earned while in the possession of the holder. Interest begins to accrue when the property is delivered to DOR and ceases 10 years after delivery or on the date DOR pays the owner, whichever occurs first.⁸

Filing Claims to Retrieve Unclaimed Property

A person may claim property from DOR by filing a claim on a form prescribed by DOR. Within 90 days after a claim is filed, DOR will allow or deny the claim and give written notice of the decision to the claimant. Within 30 days after a claim is allowed, DOR will deliver the property or pay the net proceeds of a sale of the property to the claimant, including any dividend, interest or other increment to which the claimant is entitled. Unclaimed property is available for refund for 35 years after the final day of the fiscal year in which DOR receives the unclaimed property.

In FY 2019, DOR's Unclaimed Property Unit returned \$48.4 million of assets back to businesses and individuals with returned amounts ranging from \$1 to \$586,000.

Table 1 shows the total unclaimed property collections for fiscal years 2015-2019, the amount of money refunded back to property owners and the net revenue to the state.⁹

Table 1
Unclaimed Property Collections and Distributions
FY 2017-FY 2021

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Unclaimed Property	\$136,129,323	\$176,837,283	\$168,222,552	\$170,976,820	\$195,978,437
Refunds	(57,030,264)	(64,385,381)	(48,373,109)	(42,494,170)	(48,321,802)
Net Revenue	\$79,099,059	\$112,451,902	\$119,849,443	\$128,482,650	\$147,656,635

⁸ [A.R.S. § 33-311](#)

⁹ [DOR Annual Report, 2021](#)

Distribution of Funds

If any property received by DOR remains unclaimed for three years, the property is sold by DOR at a public auction¹⁰ and the proceeds are distributed each fiscal year to a number of state funds as follows: 1) the first \$2 million are deposited in the Seriously Mentally Ill Housing Trust Fund; 2) the second \$2.5 million are deposited in the Housing Trust Fund; and 3) the next \$24.5 million are deposited in the DOR Administrative Fund. The remaining monies are deposited into the state General Fund. Additionally, DOR must deposit monies from unclaimed shares and dividends of any corporation incorporated under the laws of Arizona in the Permanent State School Fund and deposit monies from unclaimed victim restitution payments in the Victim Compensation and Assistance Fund. DOR must retain in a separate trust fund, the Estate and Unclaimed Property Fund, at least \$100,000 to pay claims.¹¹

¹⁰ [A.R.S. § 44-312](#)

¹¹ [A.R.S. § 44-313](#)

Unemployment Insurance

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Unemployment Insurance (UI) provides temporary financial relief to eligible workers who separate from their previous employers at no fault of their own and if they are able to work, available for work and actively seeking work.

An *employee* is a person who performs services for an *employing unit* and who is subject to the direction and control of the employing unit as to both the method of performing the services and the result to be accomplished. *Control* includes controlling the person's hours of work, location of work and right to perform services. Certain individuals are exempt and not considered an employee including a person who performs services as an independent contractor, business person, agent or consultant or in a capacity characteristic of an independent profession, trade, skill or occupation. ([A.R.S. § 23-613.01](#)).

Statute outlines conditions, and if met, considers an *employing unit* as an employer. For example, an employing unit is deemed an employer if they have or had in employment at least one individual and paid for services in employment wages of at least \$1,500. However, some services are not considered employment and are exempt ([A.R.S. §§ 23-613](#) and [23-617](#)).

Unemployment Taxes

In order to cover the costs of UI, employers are required to pay two types of taxes: State Unemployment Tax (SUTA) and Federal Unemployment Tax (FUTA). Unemployment taxes cannot be withheld from wages paid to an employee. The monies derived from the taxes are deposited into the UI Trust Fund and are used solely for payment of benefits to unemployed workers.

The amount of SUTA an employer pays is based on their experience rating. New employers are assigned a tax rate of 2.0% for the first two calendar years, after which time their tax rate may be increased or decreased based on their experience rating. Their experience rating is calculated using a reserve ratio system based on four factors:

- 1) The amount of taxes paid;
- 2) The amount of unemployment benefits paid to former employees;
- 3) The average size of annual taxable payroll; and
- 4) The overall solvency of the Unemployment Trust Fund.

Each year the Arizona Department of Economic Security determines the rates for both positive-rated and negative-rated employers. The Department publishes a Tax Rate Chart that lists each ratio group and the assigned rate for the ratio groups. Employers with a positive reserve ratio are assigned the lowest tax rates, while employers with a negative ratio are assigned substantially higher rates ([A.R.S. § 23-730](#)) ([Tax Rate Chart for 2022](#)).

The FUTA rate is currently 6%. Under Federal law, states that are in compliance with remitting the tax receive a tax credit of 5.4%. Arizona has a credit of 5.4%, so employers currently pay a rate of 0.6%.

The Federal and State Unemployment Tax is levied on the first \$7,000 in wages paid to each worker in a CY.

Unemployment Eligibility

A person is considered *unemployed* if the person performs no services and no wages were paid, or if the wages payable to the person are less than the weekly benefit amount with respect to any week of less than full-time work ([A.R.S. § 23-621](#)).

Statute outlines eligibility requirements for receiving UI benefits. Namely, a person must have worked for an employer who paid unemployment tax and must have earned wages equivalent to a somewhat complex formula as follows:

- 1) At least 390 times the Arizona minimum wage in their highest earning quarter and the total of the other three quarters must equal at least one half of the amount in their high quarter; or
- 2) At least \$7,000 in total wages in at least two quarters of their base period, with wages in one quarter equal to \$5,987.50 or more.

Base period is the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year. The benefit amount is 4% of the wages paid in the highest quarter of the worker's base period. The maximum UI payment an individual may receive is set at \$240 per week. Beginning July 1, 2022, the maximum UI payment is \$320. The duration of benefits is based on Arizona's unemployment rate. If the unemployment rate is 5% or more, an individual may receive benefits for up to 26 weeks. If the unemployment rate is less than 5%, an individual may receive benefits for up to 24 weeks. ([A.R.S. §§ 23-605](#), [23-771](#), [23-779](#), [23-780](#)).

Funding for the Water Quality Assurance Revolving Fund

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Overview

The Water Quality Assurance Revolving Fund (WQARF) is a state fund that finances efforts to identify, monitor, and remediate groundwater and the overlying soil that has been contaminated by hazardous substances. Created in 1986 by the Environmental Quality Act (Laws 1986, Chapter 368),¹ WQARF is similar to and complements the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) ([codified as 42 U.S.C. section 9604 et seq.](#)). This federal law, which was enacted in 1980 and is often referred to as the "Superfund" program:

- Established prohibitions and requirements for closed and abandoned hazardous waste sites;
- Directed the Environmental Protection Agency (EPA) to establish reporting requirements for quantities for all hazardous substances ([42 United States Code section 9602](#));
- Requires any person in charge of vessel or facility to notify the National Response Center² when quantities equal to or greater than those prescribed by the EPA are released ([42 United States Code section 9603](#));
- Authorized federal response when hazardous substances are released into the environment that includes removing these substances and providing remedial action necessary to protect public health or welfare or the environment ([42 United States Code section 9604](#)); and
- Provided liability for those responsible for releasing hazardous waste at these sites ([42 United States Code section 9607](#)).

The remediation program under WQARF complements CERCLA at the state-level. Specifically, the Arizona Department of Environmental Quality (ADEQ) has established thresholds for reporting releases of certain hazard substances that are not covered under CERCLA ([A.R.S. § 49-284](#)). Further, statute prescribes a process for ADEQ to investigate releases, develop plans to remediate soil and groundwater contaminated by these releases, identify the parties responsible for these releases, and hold these parties liable for remediation costs:

- 1) Similar to CERCLA, a facility owner or operator must notify ADEQ when releases of hazardous substances exceed established thresholds ([A.R.S. § 49-284](#)). The agency will then investigate the site of this release, issue a score based on the extent of contamination and the number of people who may be affected, and draft and record a site registry report ([A.R.S. § 49-287.01](#)).
- 2) If there is a significant risk to public health or welfare or the environment, ADEQ will conduct a remedial

Hazardous substances covered under WQARF include those regulated under federal legislation such as CERCLA, Clean Air Act, Clean Water Act, Solid Waste Disposal Act, and Federal Toxic Substances Control Act as well as any substances designated by ADEQ. These substances include asbestos, benzene and certain amounts of ammonia. Petroleum or any of its constituents can be considered hazardous substances if it cannot be addressed through Arizona's underground storage tank laws or the federal Solid Waste Disposal Act and it has migrated in groundwater beyond the property where it was released.

Source: A.R.S. §§ [49-201](#), [49-281](#), [49-283.02](#), [49-922](#) and [49-1001](#).

¹ In addition to creating WQARF, the Environmental Quality Act established the Arizona Department of Environmental Quality and several programs that this agency administers, such as those that regulate fertilizers and discharges of pesticides and other chemicals into surface and groundwaters.

² The National Response Center is the designated federal point of contact for reporting all oil, chemical, radiological, biological and disease-causing discharges into the environment. It is staffed by the U.S. Coast Guard.

investigation and feasibility study that includes a community involvement plan that establishes a community advisory board and establishes ways of communicating information about this release to the public ([A.R.S. § 49-287.03](#)).

- 3) ADEQ will investigate all those who can be held liable for this release ([A.R.S. § 49-287.02](#)).
- 4) Once the remedial investigation and feasibility study are completed, ADEQ will prepare a proposed remedial action plan that includes proposed remedy and estimated costs for public comment.
- 5) At the conclusion of public comments, ADEQ will prepare a comprehensive response summary and record of decision (ROD) on the remedial action plan ([A.R.S. § 49-287.04](#)).
- 6) After the ROD is signed, if ADEQ determines that cost recovery is appropriate, it will notify each liable party of how the remedial action costs will be allocated and offer to settle that party's liability if the party agrees to pay 75% of these costs ([A.R.S. § 49-287.05](#)). If the liable party declines to settle, the matter will move to a formal proceeding that will determine each party's share of liability ([A.R.S. § 49-287.06](#)).

In addition to this outlined process, ADEQ can take interim remedial actions to address losses or reductions in available well water from contamination by hazardous substances ([A.R.S. § 49-282.03](#)) or remedial actions to prevent or mitigate hazardous substances from contaminating groundwater by vertical migration ([A.R.S. § 49-282.04](#)). Additionally, ADEQ can pursue certain mitigation measures if a drinking water source will be rendered unusable because of contamination by a non-hazardous substance ([A.R.S. § 49-286](#)).

ADEQ will sometimes identify *orphan shares* through this process, which are shares in the cost of a remedial action that have been allocated to a responsible party but that have not been paid or settled because the party either no longer exists, has entered into a settlement agreement that is for less than its allocated share, or ADEQ has determined that the share allocated is uncollectible ([A.R.S. § 49-281\(10\)](#)). According to ADEQ, the liability for these *orphan shares* exceeded \$185 million in 2018.

Using WQARF Monies

WQARF monies can be used for operating the remediation program and most costs related to investigating, remediating, and monitoring sites where hazardous substances have been released, including costs incurred by other agencies that are involved in these efforts, such as the Attorney General, Arizona Department of Water Resources (ADWR),³ and Arizona Department of Health and Human Services. Additionally, WQARF monies can provide state matching monies to meet some obligations under CERCLA.⁴ Finally, a political subdivision⁵ can also be reimbursed for costs incurred in response to the real or potential release of hazardous substances provided it has taken all reasonable efforts to obtain reimbursement from the responsible party and the federal government. However, any political subdivision of the state that uses or may use waters of the state for drinking water can apply to the ADEQ Director for fund monies for remedial actions, regardless of whether the political subdivision or state agency is a

³ Additionally, statute directs ADEQ to contract with ADWR to transfer up to \$800,000 from WQARF to the Arizona Water Quality Fund for support services that ADWR can provide for WQARF ([A.R.S. § 49-282\(C\)](#)). As indicated by Table # (see page #), the amount transferred to ADWR since FY 2008 has generally been less than this amount.

⁴ Section 104 of CERCLA requires that before any federal remedial actions take place, a state must enter into a contract or cooperative agreement with the President. This contract or agreement requires, in part, the State to promise that it will pay 10% of the costs of the remedial action (including future maintenance) or 50% or more of the total response cost if the state or its political subdivision directly or through a contract, operated a facility that was the source of the hazardous release ([42 United States Code section 9604\(c\)\(3\)](#)).

⁵ A political subdivision of the state is usually a city, town, or county or a special district of one of these entities.

responsible party. The political subdivision must commit a local matching amount at least equal to the amount sought from the fund ([A.R.S. §§ 49-282\(E\) and 49-282\(F\)](#)).

Statutory Funding Formula for WQARF

Statute establishes a formula for providing \$18 million annually to WQARF through a combination of revenues and corporate income taxes. Specifically, WQARF has 13 different revenue streams that include legislative appropriations; license, permit, and registration fees; monies associated with remedial actions; and taxes on privately owned municipal water delivery systems ([A.R.S. § 49-282\(A\)](#)). At the beginning of the fiscal year, the State Treasurer must transfer \$15 million from collected corporate income taxes to WQARF. The State Treasurer will then adjust this transfer so that, when combined with the other revenues deposited into this fund during the fiscal year, WQARF will receive \$18 million by the end of the fiscal year. If corporate incomes taxes are insufficient, the State Treasurer must use monies from transaction privilege and severance taxes ([A.R.S. § 49-282\(B\)](#)). Monies in this fund are exempt from lapsing ([A.R.S. § 49-282\(D\)](#)).

Recent Trends in Legislative Appropriations to WQARF

The Legislature has waived the statutory funding formula for WQARF since FY 2008 in favor of reducing the amount of corporate income taxes available and appropriations from several other funds for programs that ADEQ administers. Specifically, in FYs 2008 through 2016, WQARF was funded from corporate income taxes (these taxes are recorded as appropriations from state General Fund to WQARF). Aside from FY 2008 (over \$11.9 million) and FY 2009 (\$13 million), these appropriations were consistently for \$7 million. In FYs 2017 and 2018, revenue from corporate income taxes decreased to \$2,823,600 and the Legislature appropriated additional monies from several program funds administered by ADEQ. In FYs 2019 and 2020, the Legislature eliminated appropriations from corporate income taxes but continued to appropriate monies from these ADEQ program funds, specifically:

- *Air Quality Fund* monies covers ADEQ research, experiments, and programs to improve air quality and reducing various emissions; monitoring visible air pollution; developing and implementing programs to reduce pollutants that contribute to visible air pollution; and developing and adopting rules for air pollution. It primarily receives revenue from the \$1.50 fee per vehicle registration, as well as gifts, grants, donations, and legislative appropriations ([A.R.S. § 49-551](#)).
- *Emissions Inspection Fund* covers the costs for enforcing fleet inspections, exemptions, and certificates of waiver programs; contract and administrative charges for the Emissions Inspections program; the State's portion of catalytic converter program costs; and research studies on the feasibility and effectiveness of new emission control technologies. It receives revenue from legislative appropriations, test fees, fleet certificate fees, private grants, donations, and federal grants ([A.R.S. § 49-544](#)).
- *Permit Administration Fund* helps develop, implement, and administer air pollution permit programs as part of the Clean Air Act for inspective, permitting, and monitoring compliance with stationary regulated emission sources. It is also used for staff at the Oil and Gas Conservation Commission, which administers and enforces state laws for conserving oil, natural gas, helium, carbon dioxide and geothermal resources and can enter into cooperative agreements to protect fresh water supplies from contamination or pollution that may result from drilling a well for these resources. The permit Administration Fund's revenues come from permit fees and interest as well as fees collected by the Oil and Gas Conservation Commission ([A.R.S. § 49-455](#)).
- *Recycling Fund* provides grants to local governments and other entities that develop recycling markets and programs. Its monies can also be used for public information, education and assistance on source reduction and recycling as well as revenue collection and administration. Its revenues primarily come from landfill disposal fees and legislative appropriations ([A.R.S. § 49-837](#)).

- *Underground Storage Tank Revolving Fund* provides partial coverage for permanent closures, leak prevention, and corrective action costs related to leaking underground storage tanks incurred by ADEQ, owners, operators, or political subdivisions. Its primary revenue comes from a 1¢ excise tax per gallon of regulated substance (such as petroleum) placed in an underground storage tank and an annual fee that is assessed on these tanks ([A.R.S. § 49-1015](#))

Although appropriations from the state General Fund to WQARF in FYs 2017 through 2020 were reduced and eventually eliminated, it is important to note that the total amount of appropriations from the ADEQ program funds during these years exceeded the \$7 million that the Legislature had appropriated from the state General Fund to WQARF in FYs 2010 through 2016. Specifically, legislative appropriations totaled nearly \$10 million in FY 2017 and these appropriations exceeded \$13.5 million in FYs 2018 through 2020. Since then, the Legislature appropriated \$15 million from the state General Fund to WQARF for FYs 2021 and 2022 ([Laws 2020, Chapter 55, §4](#) and [Laws 2021, Chapter 407, § 11](#)).

Recent Trends in other Revenues for WQARF

Other revenues for WQARF decreased from about \$6.5 million in FY 2008 to about \$4.6 million in FY 2009. Revenues largely continued to remain between about \$3.9 and \$5.1 million in FYs 2010 through 2017, then jumped to over \$7.1 million in FY 2019. In FY 2020, revenues dropped to \$711,300, which can be attributed to lower revenues from taxes, fees, restitution, and fines.

One legislative change may have also decreased these revenues. Specifically, [Laws 2017, Chapter 308, §1](#) requires the Arizona Department of Revenue to direct the first \$1,800,000 of Public Water System (PWS) tax revenue to the new appropriated Safe Drinking Water Program Fund in order to shift program funding to a more appropriate source. Prior to this change, all PWS monies were deposited into WQARF. Pursuant to A.R.S. § 42-5302, the PWS tax (\$0.65 per 1,000 gallons) is levied directly on the entities that operate public water systems.

Sources

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Bearden, David M. (2012). *Comprehensive Environmental Response, Compensation, and Liability Act: A Summary of Superfund Cleanup Authorities and Related Provisions of the Act (R41039)*. Washington, D.C.: Congressional Research Service.



CRIMINAL CODE SENTENCING PROVISIONS 2020 - 2021

Effective August 25, 2020*

*Unless otherwise indicated



GENERAL CRIMES SENTENCING RANGES

NON-DANGEROUS OFFENSES—§ 13-702					
Class		First Offense—§ 13-702(D)			
2	MIT*	MIN	P	MAX	AGG*
	3	4	5	10	12.5
3	2	2.5	3.5	7	8.75
4	1	1.5	2.5	3	3.75
5	.5	.75	1.5	2	2.5
6	.33	.5	1	1.5	2

Probation eligible, except for drug offenses in which the amount exceeds the statutory threshold pursuant to § 13-3405(C), § 13-3407(D), (E), (F) & (G), or § 13-3408 (D) & (E)

NON-DANGEROUS OFFENSES—REPETITIVE OFFENSES—§ 13-703*															
Class	Category One—(§ 13-703(H))					Category Two—(§ 13-703(I))					Category Three—(§ 13-703(J))				
	MIT*	MIN	P	MAX	AGG*	MIT*	MIN	P	MAX	AGG*	MIT*	MIN	P	MAX	AGG*
2	3	4	5	10	12.5	4.5	6	9.25	18.5	23	10.5	14	15.75	28	35
3	2	2.5	3.5	7	8.75	3.25	4.5	6.5	13	16.25	7.5	10	11.25	20	25
4	1	1.5	2.5	3	3.75	2.25	3	4.5	6	7.5	6	8	10	12	15
5	.5	.75	1.5	2	2.5	1	1.5	2.25	3	3.75	3	4	5	6	7.5
6	.25	.5	1	1.5	2	.75	1	1.75	2.25	2.75	2.25	3	3.75	4.5	5.75

DANGEROUS OFFENSES—§ 13-704											
Class		First Offense § 13-704(A)			One Historical Prior § 13-704(B),(D)			Two Historical Priors § 13-704(C),(E)			
2	MIN	P	MAX	MIN	P	MAX	MIN	P	MAX		
	7	10.5	21	14	15.75	28	21	28	35		
3	5	7.5	15	10	11.25	20	15	20	25		
4	4	6	8	8	10	12	12	14	16		
5	2	3	4	4	5	6	6	7	8		
6	1.5	2.25	3	3	3.75	4.5	4.5	5.25	6		

DANGEROUS OFFENSES—REPETITIVE OFFENSES—§ 13-704(F)						
Class	Second Dangerous Offense			Third and Subsequent Dangerous Offenses		
	MIN	MAX	INCREASED MAX	MIN	MAX	INCREASED MAX
2	10.5	21	26.25	15.75	28	35
3	7.5	15	18.75	11.25	20	25
4	6	8	10	10	12	15
5	3	4	5	5	6	7.5
6	2.25	3	3.75	3.75	4.5	5.6

*Two or more mitigating or aggravating factors, as applicable. A.R.S. § 13-702

DANGEROUS CRIMES AGAINST CHILDREN SENTENCING RANGES—§ 13-705

Subsection	First Offense			One Predicate Prior			Two Predicate Priors		
	MIN	P	MAX	MIN	P	MAX	MIN	P	MAX
A		LIFE			LIFE			LIFE	
B	LIFE/13	LIFE/20	LIFE/27	LIFE/13	LIFE/20	LIFE/27	LIFE/13	LIFE/20	LIFE/27
C	13	20	27	23	30	37		LIFE	
D	10	17	24	21	28	35		LIFE	
E	5	10	15	8	15	22		N/A	
F	2.5	5	7.5	8	15	22		N/A	

 Probation eligible

A prison sentence imposed for a conviction of child molestation or sexual abuse may be served concurrently with other sentences if the offense involved only one victim. The sentence imposed for any other dangerous crime against children in the first or second degree shall be consecutive to any other sentence imposed at any time, including child molestation and sexual abuse of the same victim. A.R.S. § 13-705(M).

FINES FOR FELONIES—§ 13-801, § 13-803

Up to \$150,000 per charge (persons); Up to \$1,000,000 per charge (enterprises)

PENALTIES FOR MISDEMEANORS—§ 13-707, § 13-802

Class	Jail-Maximum	Fines Before Surcharges	
1	6 months	Up to \$2,500 (persons)	Up to \$20,000 (enterprises)
2	4 months	Up to \$750 (persons)	Up to \$10,000 (enterprises)
3	30 days	Up to \$500 (persons)	Up to \$2,000 (enterprises)
Petty Offense	No jail	Up to \$300 (persons)	Up to \$1,000 (enterprises)

A person convicted of a misdemeanor may be sentenced to community restitution pursuant to §13-717 (A) or education or treatment pursuant to §13-717, (B). §13-603 (E) (7)

A.R.S. § 13-707(B) provides that a person convicted of the same misdemeanor or petty offense within two years of the date of the present offense shall be sentenced for the next higher class of offense for which the person currently stands convicted. Except for misdemeanor offenses prosecuted in a justice or municipal court, the presumptive fine imposed on an enterprise must be the median of the allowable range for the violation involved. With specified exceptions, the amount of the fine must be reduced by 25% if the enterprise had an effective program to prevent and detect violations of law when the offense was committed. Whether or not there is a program, five times the maximum allowable fine may be charged under circumstances prescribed in § 13-823.

A.R.S. 12-114 - \$9 surcharge on any fee charged by a court authorized diversion program for a civil or criminal traffic offense.

SURCHARGES

Amount added to all fines, penalties and forfeitures	§ 12-116.01 (Surcharges)	§ 12-116.02 (Additional Surcharges)	§ 16-954 (Clean Elections)
	55%*	13%	10%

Surcharges are applied to the base fine, civil penalty or forfeiture and not to other surcharges.

***Applicable to violations committed on or after January 1, 2019.** 60% is applicable to violations committed from January 1, 2012 - December 31, 2018. 61% is applicable to violations committed from September 19, 2007 – December 31, 2011, 57% is applicable to violations committed from August 22, 2002 to September 18, 2007.

PENALTY ASSESSMENTS

§ 12-114.01 (Probation)	§ 12-116.04 (Moving violations; assessment)	§ 12-116.05 (Protected address)	§ 12-116.06 (Family offenses)	§ 12-116.07 (DCAC & Sexual Assault)	§ 12-116.08 (Victim Funds)	§ 12-116.09 (Victim's rights enforcement fund)	§ 12-116.10 (Police equipment fund)

§12-114.01 - \$5 surcharge applicable to violations committed on or after August 22, 2002. \$10 surcharge applicable to violations committed **statewide** on or after September 21, 2006. \$20 surcharge applicable to violations committed **in Maricopa County** on or after July 1, 2008 and applicable **statewide** for violations committed on or after November 24, 2009. The probation surcharge does not apply to local ordinance parking violations.

§ 12-116.04- \$13 assessment applicable to each conviction or finding of responsibility to which the surcharge is applicable. Note that the assessment is broader than the title indicates. Effective July 20, 2011.

§ 12-116.05- \$50 assessment applicable to a conviction for an offense in Title 13, Chapter 14 or 35.1, § 13-2923 or a Domestic Violence offense pursuant to section § 13-3601. Effective January 1, 2012.

§ 12-116.06- \$50 assessment applicable to a conviction for a violation of § 13-2921, 13-2921.01, 13-2923 or an offense listed in Title 13, Chapter 36. Effective July 20, 2011.

§ 12-116.07- \$500 assessment applicable to each conviction or finding of delinquency for a Dangerous Crime Against Children or Sexual Assault. This assessment shall not be waived. Effective January 1, 2012. (Formerly §13-824)

§12-116.08- \$9 assessment applicable to each conviction or finding of responsibility to which the surcharge is applicable. This assessment cannot be mitigated. Effective January 1, 2019.

§12-116.09- \$2 assessment applicable to each conviction or finding of responsibility to which the surcharge is applicable. Effective January 1st, 2015.

§12-116.10 - \$4 assessment applicable to any civil penalty imposed and collected for a civil traffic violation and fine, penalty or forfeiture for a criminal violation of the motor vehicle (Title 28) statutes or for any local ordinance relating to the stopping, standing or operation of a vehicle. Effective January 1, 2019.

Note: Former §12-116.08- \$15 assessment applicable to each conviction for a violation of Title 13, Chapter 34. Effective from August 2, 2012- August 5, 2016

PROBATION RANGES—§ 13-902

General Crimes: Unless terminated sooner, the term of probation for a class 2 felony is up to seven years; class 3 felony, up to five years; class 4 felony, up to four years; class 5 or 6 felony, up to three years; class 1 misdemeanor, up to three years; class 2 misdemeanor, up to two years; and class 3 misdemeanor, up to one year. Persons with outstanding restitution payments are subject to an extension in their probationary period of up to five years for a felony and up to two years for a misdemeanor. If a person is released pursuant to § 31-233(B) and community supervision is waived pursuant to § 13-603(K), the court shall extend the period of probation by the amount of time the director of the state department of corrections approves the inmate's temporary release.

DUI: For a conviction of a DUI offense pursuant to § 28-1381 or extreme DUI offense pursuant to § 28-1382, the term of probation is up to five years and for a conviction of an aggravated DUI offense pursuant to § 28-1383, up to ten years. A.R.S. § 13-902(B).

Lifetime Probation: For a conviction of committing or attempting to commit any felony offense pursuant to Title 13, Chapter 14 or Chapter 35.1, or § 13-2308.01, § 13-2923, § 13-3212, § 13-3623 or § 13-3824(A), if the underlying offense was a felony and probation is available, the term shall be the maximum allowed for that class felony and, at the discretion of the court, may be for life. A.R.S. § 13-902(E), (F).

PROBATION: EARNED TIME CREDIT—§ 13-924

The court may adjust the period of a probationer's supervised probation on the recommendation of an adult probation officer for earned time credit of twenty days for every thirty days that a probationer complies with all statutory requirements. The probationer must be current on court ordered restitution and in compliance with all other non-monetary terms of probation. This provision does not apply to a probationer who is on lifetime probation, probation for any class 2 or 3 felony, on probation exclusively for a misdemeanor offense or a person required to register pursuant to § 13-3821.

MITIGATION AND COMMUNITY RESTITUTION

The court may mitigate a fine, except a mandatory fine, and may mitigate a civil penalty assessed for a violation of Title 28, Chapters 3, 5, 7 and 9. If a mandatory fine is imposed the court may mitigate the surcharge, except for the 10% Clean Elections Surcharge. The surcharge imposed is based on the mitigated fine or civil penalty. Factors to be considered are enumerated in statute. A.R.S. §§ 13-825, 28-1603.

A.R.S. §13-824 provides that the court may order a defendant to perform community restitution in lieu of payment of all or part of any monetary obligation, except an assessment imposed pursuant to A.R.S. §§ 12-116.05, 12-116.06, 12-116.07, 12-116.08 and 12-116.09 and surcharge imposed and collected pursuant to section 16-954 (A) if the court finds the defendant is unable to pay all or part of the fine, fee, assessment or incarceration cost. The amount of community restitution is credited at \$10 per hour toward the monetary obligation.

SERIOUS, VIOLENT OR AGGRAVATED OFFENSES—§ 13-706

A person who is at least eighteen years of age or who has been tried as an adult and who is convicted of a serious offense except a drug offense, first degree murder or any dangerous crimes against children as defined in § 13-705, whether a completed or preparatory offense, and who has previously been convicted of two or more serious offenses not committed on the same occasion shall be sentenced to life imprisonment and is not eligible for

suspension of sentence, probation, pardon or release from confinement on any basis, except as specifically authorized by § 31-233(A) or (B), until the person has served at least twenty-five years or the sentence is commuted.

Unless a longer term of imprisonment or death is the prescribed penalty and notwithstanding any provision that establishes a shorter term of imprisonment, a person who has been convicted of committing or attempting or conspiring to commit any violent or aggravated felony and who has previously been convicted on separate occasions of two or more violent or aggravated felonies not committed on the same occasion shall be sentenced to imprisonment for life and is not eligible for suspension of sentence, probation, pardon or release on any basis except that the person may be eligible for commutation after the person has served at least thirty-five years.

OFFENSES COMMITTED WHILE RELEASED FROM CONFINEMENT—§ 13-708

A person who is convicted of any felony involving a dangerous offense that is committed while the person is on probation for a conviction of a felony or parole, work furlough, community supervision or any other release or has escaped from confinement for conviction of a felony shall be sentenced pursuant to § 13-708(A).

A person who is convicted of a dangerous offense that is committed while the person is on release or has escaped from confinement for a conviction of a serious offense, an offense resulting in serious physical injury or an offense involving the use or exhibition of a deadly weapon or dangerous instrument shall be sentenced pursuant to § 13-708(B).

A person who is convicted of any felony that is not included in § 13-708(A) or (B) and that is committed while the person is on probation for a conviction of a felony or parole, work furlough, community supervision or any other release or has escaped from confinement for a conviction of a felony shall be sentenced pursuant to § 13-708(C).

A person who is convicted of any felony that is committed while the person is released on bond or on the person's own recognizance on a separate felony or while the person is escaped from pre-conviction custody for a separate felony shall be sentenced pursuant to § 13-708(D).

A sentence imposed pursuant to subsection §13-708 (A), (B) or (C) revokes the convicted person's release and shall be consecutive to any other sentence from which the convicted person had been temporarily released or had escaped, unless the sentence from which the convicted person had been paroled or placed on probation was imposed by a jurisdiction other than this state.

SEXUAL ASSAULT—§ 13-1406

A person convicted of sexual assault is sentenced pursuant to A.R.S. § 13-1406, which contains specific sentencing ranges.

RELEASE

If a person is sentenced to a term of imprisonment, the court at the time of sentencing shall impose on the convicted person a term of community supervision equal to one day for every seven days of the sentence or sentences imposed. A.R.S. § 13-603(I).

A person may earn release credits of one day for every six days served, unless prohibited by statute. Commutation is possible, unless otherwise provided by law. A.R.S. § 41-1604.07.

A person convicted of a violent crime as defined in A.R.S. § 13-901.03 committed while the person is under the influence of marijuana, a dangerous drug or a narcotic drug is not eligible for release or probation until the entire sentence has been served. A.R.S. § 41-1604.15.

FIRST- AND SECOND-DEGREE MURDER - § 13-751, 13-752

1st Degree Murder Sentence of death or imprisonment for life or natural life, as determined in accordance with the procedures provided in § 13-752. Note, life is only available if the offense is committed by a person under eighteen years of age or the person is convicted of felony murder. A person under eighteen years of age who is sentenced to life is eligible for parole after serving the minimum sentence regardless of whether the crime was committed on or before January 1, 1994. A person who is sentenced to natural life is not eligible for commutation, parole, work furlough, work release, or release from confinement on any basis. If the person is sentenced to life, the person shall not be released on any basis until having served 25 calendar years if the murdered person was 15 or more years of age and 35 calendar years if the murdered person was under 15 years of age. A.R.S. § 13-751.

2nd Degree Murder Except as provided in § 13-706(A) or § 13-705, imprisonment for 16 calendar years with a possible increase to 25 years or decrease to 10 years for aggravating or mitigating circumstances. Except as provided in § 13-704(A) or § 13-705, a person previously convicted of second-degree murder or a class 2 or 3 felony involving a dangerous offense shall be imprisoned for 20 calendar years with a possible increase to 29 years or decrease to 15 years for aggravating or mitigating circumstances. A.R.S. § 13-710.

JUVENILE OFFENDERS— §§ 8-202, 13-501, 13-504

If the state files a notice of intent to retain jurisdiction when proceedings are commenced by the filing of a petition or transfer from criminal court, the juvenile court must retain jurisdiction over a juvenile who is at least seventeen years of age and who has been adjudicated a delinquent juvenile until the juvenile reaches nineteen years of age, jurisdiction is terminated by order of the court or the juvenile is discharged from the jurisdiction of the Department of Juvenile Corrections. A.R.S. §8-202.

On the motion of a juvenile or on the court's own motion, if a juvenile is being prosecuted in the same manner as an adult pursuant to section §13-501 (B), the court, shall hold a hearing to determine if jurisdiction of the criminal prosecution should be transferred to the juvenile court. A.R.S. § 13-504.

A juvenile convicted in adult court as a chronic felony offender pursuant to § 13-501 (A) or (B) and placed on probation must be sentenced to a term of incarceration in the county jail, not to exceed one year. A.R.S. § 13- 608.

DRUG OFFENSE SENTENCING RANGES

Drug Threshold Amounts—§ 13-3401(36)

Drug	Threshold Amount
Amphetamine & Methamphetamine	9 grams (including in liquid suspension)
Cocaine	9 grams (powder form) — 750 milligrams (rock form)
LSD	1/2 milliliter (liquid form) — 50 dosage units (blotter form)
Marijuana	2 pounds
PCP	4 grams or 50 milliliters

For any combination consisting solely of the drugs listed above, the threshold is an amount equal to or in excess of the threshold amount as determined by the application of A.R.S. § 13-3420.

For any drug not listed above, or any combination of drugs not listed above, the threshold is an amount with a value of at least \$1,000.

Unless otherwise provided by statute, penalty provisions for a specific drug offense are found in the statute in Title 13, Chapter 34 defining that offense. Note: Probation is required for persons convicted of possession or use of a controlled substance or drug paraphernalia. A.R.S. §13-901.01.

DRUG OFFENSES—MULTIPLE OFFENSES § 13-3419 Below Statutory Threshold Amounts—§ 13-3419(A)(1),(2)										
Class	Second Offense					Third and Subsequent Offenses				
	MIT	MIN	P	MAX	AGG	MIT	MIN	P	MAX	AGG
2	3	4	5	10	12.5	3	4	5	10	12.5
3	1.8	2.5	3.5	7	8.7	1.8	2.5	3.5	7	8.7
4	1.1	1.5	2.5	3	3.7	1.1	1.5	2.5	3	3.7
5	.5	.75	1.5	2	2.5	.5	.75	1.5	2	2.5

 Probation eligible.

DRUG OFFENSES—MULTIPLE OFFENSE—S§ 13-3419) Equals or Exceeds Statutory Threshold Amounts—§ 13-3419(A)(3),(4)									
Class	Second Offense					Third and Subsequent Offenses			
	MIT	Min	P	Max	AGG	Min	P	Max	AGG
2	3	4	5	10	12.5	4	7	12	15
3	1.8	2.5	3.5	7	8.7	2.5	5	9	11.2
4	1.1	1.5	2.5	3	3.7	1.5	3	5	6.2
5	.5	.75	1.5	2	2.5	0.75	2.5	4	5

The mitigated sentence does not apply to a person sentenced pursuant to §13-3419(A)(4).
For non-multiple drug offense sentencing ranges, refer to the general crimes sentencing ranges.

PERSONAL POSSESSION & USE OF DRUGS—§ 13-901.01

A person convicted of a first or second offense for the personal possession or use of a controlled substance as defined in § 36-2501 must be placed on probation unless the person is also convicted of a violent offense defined in § 13-901.03. Incarceration may not be imposed as an initial condition of probation for a first offense. If a person convicted of a first offense is found to be in violation of probation by committing an offense listed in Title 13, Chapter 34 or 34.1 or an act in violation of an order of the court related to drug treatment, the person may be incarcerated upon reinstatement of probation. Participation in an appropriate drug treatment or education program is a required condition of probation and each person enrolled in a program shall pay for participation in the program to the extent of the person's financial ability. A person convicted of a second offense may be incarcerated as a term of probation.

DOMESTIC VIOLENCE OFFENSES—§ 13-3601

Pursuant to § 13-3601.01, the judge must order a person convicted of a misdemeanor domestic violence offense to complete a domestic violence offender treatment program, unless the person previously has completed a program as ordered and the judge deems alternative sanctions to be more appropriate. On conviction of a misdemeanor domestic violence offense, if a person within a period of 60 months has previously been convicted of

a domestic violence offense, as defined in § 13-3601, or is convicted in another jurisdiction of an act that if committed in this state would be a domestic violence offense, the judge may order the person to be placed on supervised probation and the person may be incarcerated as a condition of probation.

If the person is incarcerated and is either employed or a student, the judge may provide in the sentence that the person may continue the employment or studies for not more than 12 hours a day nor more than five days a week and be allowed out of jail only long enough to complete the actual hours of employment or studies. The person must spend the remaining day, days or parts of days in jail until the sentence is served. Pursuant to § 13-3601.02 if a person is guilty of aggravated domestic violence the person must serve not less than four months in jail. If a person is convicted of aggravated domestic violence and has been convicted of three or more prior domestic violence offenses within 84 months the person must serve at least eight months in jail. For purposes of these sections, previous convictions of domestic violence offenses apply only to convictions for offenses committed on or after January 1, 1999. Pursuant to § 13-3601(L) the maximum sentence otherwise authorized shall be increased by up to two years if a person is convicted of a felony domestic violence offense against a pregnant victim knowing the victim was pregnant.

DRIVING UNDER THE INFLUENCE – Title 28, Chapter 4

Additional Penalty	\$250	\$500	\$1,000	\$1,250	\$1,500
Assessments Applicable to Driving, Boating, Operating an Aircraft Under the Influence (Not subject to any surcharge)	§ 28-1382 (D)(3), (E)(3) § 28-1383 (J)(2)	§ 5-395.01 (L)* § 5-395.01 (M)** § 28-1381 (I)(4)* § 28-1381 (I)(5)** § 28-8284 (D)(4)* § 28-8284 (D)(5)** § 28-8286 (6)* § 28-8286 (7)**	§ 5-397 (D)(4)* § 5-397 (D)(5)** § 28-1382 (D)(6)* § 28-1382(D)(7)**	§ 5-395.01 (L)* § 5-395.01 (M)** § 5-397 (F)(4)* § 5-397 (F)(5)** § 28-1381 (K)(5)* § 28-1381 (K)(6)** § 28-1382 (F)(6)* § 28-1382 (F)(7)** § 28-8287 (A)(6)* § 28-8287 (A)(7)**	§ 5-396 (I)* § 5-396 (J)** § 28-1383 (J)(4)* § 28-1383 (J)(5)** § 28-8288 (A)(5)* § 28-8288 (A)(6)**

*Applicable to all violations committed on or after March 13, 2004.

**Applicable to all violations committed on or after August 12, 2005.

ADDITIONAL FEES

MONTHLY PROBATION FEE: When granting probation to an adult the court, as a condition of probation, shall assess a monthly fee of not less than \$65 (\$50 for offenses committed prior to May 2, 2009) unless, after determining the inability of the probationer to pay the fee, the court assesses a lesser fee. For intensive probation the fee is \$75 (\$50 for offenses committed prior to November 24, 2009). In justice and municipal courts, the fee shall only be assessed when the person is placed on supervised probation. A.R.S. §13-901.

TIME PAYMENT FEE: In addition to any other assessment authorized by law, a fee of \$20 shall be assessed on each person who pays a court ordered penalty, fine or sanction on a time payment basis, including parking penalties, restitution and juvenile monetary assessments. A judge may not waive or suspend a time payment fee. A.R.S. §12-116.



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